Title 20

PUBLIC WORKS, IMPROVEMENTS AND PURCHASING[1]

This title is intended for those provisions of the Code which relate to procedures and specifications for public works, local improvements and City purchasing.

1. Editor's Note: Former §§ 20.88.010 through 20.88.050, constituting Ch. 20.88, were editorially renumbered to §§ 3.18.200 through 3.18.280 in the November, 1986 supplement.

Subtitle I

Public Improvements

Chapter 20.04

PUBLIC IMPROVEMENT DISTRICTS

Sections:

20.04.010 Method of procedure.

Whenever the City Council shall provide for local improvements, this chapter shall apply, except as otherwise provided by ordinance.
(Ord. 122045 § 1, 2006; Ord. 109729 § 1, 1981.)

20.04.020 Council vote required.

No ordinance relating to local improvements shall be considered passed unless it shall have received the

affirmative vote of at least a majority of the members of the City Council; provided, that unless a petition for any improvement is presented, the improvement shall not be ordered except by ordinance passed by the affirmative vote of two-thirds (2/3) of all members of the City Council at a regular meeting, or at a meeting which is an adjournment of a regular meeting; provided, that no streets shall be ordered graded without petition, except by a unanimous vote of all members present.
(Ord. 109729 § 2, 1981.)

20.04.030 Notice of hearings--Mailing.

The Director of Transportation shall mail all notices of hearings on proposed improvements and assessment rolls required by law to be mailed, and shall make all certificates of mailing required by law in such connection, and file the same with the City Clerk.
(Ord. 118409 § 136, 1996: Ord. 109729 § 3, 1981.)

20.04.040 Plans, contract and management of work.

After the legislative authority has provided by ordinance for the making of any local improvement, plans therefor shall be approved, the contract let and the work supervised and accepted or rejected, all in accordance with the provisions of Article VII of the City Charter[1] (Contracting requirements) and ordinances implementing said provisions.
(Ord. 120794 § 213, 2002: Ord. 109729 § 4, 1981.)
1. Editor's Note: The Charter is set out at the front of this Code.

20.04.050 Modes of payment.

There shall be two (2) modes of payment for the portion of the cost and expense of any local improvement contemplated by this chapter, and payable by special assessment, to wit: "immediate payment" and "payment by bonds." The mode adopted shall be the mode petitioned for in case the improvement shall be made upon petition. Otherwise, the Director of Executive Administration, in consultation with the Director of Finance, shall make a recommendation to the City Council as to the mode of payment, and the mode shall be the one designated in the ordinance ordering such improvement.
(Ord. 120794 § 214, 2002: Ord. 109729 § 5, 1981.)

20.04.060 Preliminary assessment roll.

A. After the City has ordered a local improvement and created a local improvement district by ordinance, the Director of Transportation shall prepare, and within fifteen (15) days after the improvement of work has been ordered and a local improvement district created, file with the Director of Executive Administration the following:

1. The title of the improvement;

2. The district number;

3. Copy of a diagram or print showing the boundaries of the district;

4. Preliminary assessment roll or abstract thereof showing the lots, tracts and parcels of land that

will be especially benefited;

5. The estimated cost and expense of such improvement to be borne by each such lot, tract or parcel; and

6. The name of the owner thereof, if known, but in no case shall a mistake in the name of the owner affect the validity of any assessment when the description of the property is correct.

B. The Director of Executive Administration shall immediately post the proposed assessment roll upon his or her index of local improvement district assessments against the properties affected.
(Ord. 120794 § 215, 2002: Ord. 118409 § 137, 1996: Ord. 116368 § 225, 1992: Ord. 109729 § 6, 1981.)

20.04.070 Final assessment roll--Hearing--Date, notice and general procedure.

A. The Director of Transportation shall prepare and file with the City Clerk the proposed final assessment roll. Upon receipt of such roll, the City Council shall by resolution fix a date for a hearing on the roll before the City Council, a committee thereof, the City Hearing Examiner, or an officer, as designated in the resolution, and direct the City Clerk to give notice of the time, place and purpose of the hearing by publication at least five (5) times in the official daily newspaper or at least two (2) times in a weekly newspaper of general circulation in the community where the improvement is constructed; provided, that at least fifteen (15) days must elapse between the date of the last publication thereof and the date fixed for the hearing. Notice of the hearing shall be mailed by the City Clerk or a person designated by the City Clerk to do so under his/her supervision to the owner or reputed owner of each property described on the assessment roll, at the address shown on the tax rolls of the County Comptroller at least fifteen (15) days before the date fixed for such hearing. At the time fixed for the hearing, the City Council, a committee thereof, the Hearing Examiner, or designated officer shall sit as a Board of Equalization for the purpose of considering the assessment roll.

B. The City Council may proceed with consideration of the final assessment roll, as follows:

1. Unless otherwise determined by ordinance or by City Council resolution, the proposed final assessment roll shall be filed within ninety (90) days following the completion and acceptance of the improvement;

2. If the ordinance authorizing the improvement so states, award of the improvement contract or commencement of work by the City shall be deferred until confirmation and filing of the assessment roll, and until funds for the improvements are assured in the judgment of the City Council expressed by resolution; or

3. A final assessment roll may be considered at such other time, before, during or after the commencement or completion of improvements, as may be determined by ordinance or City Council resolution.
(Ord. 122045 § 2, 2006; Ord. 118409 § 138, 1996: Ord. 109729 § 6A, 1981.)

20.04.080 Final assessment roll--Departmental representatives at hearing.

One or more representatives of the Director of Transportation and any affected department of the City

may be designated by the department head to assist in the presentation of pertinent materials at the hearing. (Ord. 118409 § 139, 1996: Ord. 109729 § 6B, 1981.)

20.04.090 Final assessment roll--Hearing--Conduct.

In a hearing before the City Council, a committee thereof, the Hearing Examiner or designated officer, the City Attorney shall be the legal representative of the local improvement district.

A. 1. The City Council, the committee thereof, the Hearing Examiner or officer designated by the City Council shall commence the hearing on the date and at the time and place fixed by the resolution of the City Council, but may in the exercise of discretion recess the hearing to times certain in order to allow the parties to obtain essential additional information, provided, however, that an effort shall be made at all times to avoid delays which unnecessarily allow interest to accumulate upon obligations for which the local improvement district is responsible.

2. The Hearing Examiner or officer shall reduce his/her findings, recommendations and decisions to writing and shall file them with the City Clerk within twenty (20) days following the conclusion of the hearing. Notice of the filing, together with copies of the findings, recommendations and decisions shall be mailed by the City Clerk or any person designated by the City Clerk to do so under his/her supervision within three (3) business days of the filing to all persons who filed timely written objections to confirmation of the assessment roll as prepared. Instructions as to the filing of any appeal to the City Council shall be included in the mailing.

B. Upon receipt of the report, findings, recommendations and decisions of the Hearing Examiner or officer the City Council or a committee thereof shall review the same. As soon as all timely appeals from the findings, recommendations and decisions of Hearing Examiner or officer have been decided or the time allowed for filing appeals has expired with no appeals having been filed the City Council may accept the assessment roll as prepared, or may correct, revise, raise, lower, change or modify the roll or any part thereof, or may set aside the roll and order the assessment to be made de novo, and at the conclusion thereof, and after the Director of Transportation has made the appropriate changes on the assessment roll at the City Council's direction, confirm the roll by ordinance. If an appeal has been filed from the findings, recommendations and decisions of the Hearing Examiner or officer it shall be heard and determined and the results thereof incorporated into the assessment roll before it is confirmed.

C. Any finding, recommendation or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

D. 1. An appeal pursuant to subsection C of this section may be filed only by a party who timely perfected a protest at the initial hearing. The notice of appeal shall, in addition to requirements as to content specified elsewhere in this chapter, state clearly on the cover or cover page the number of the local improvement district and the appellant's name and shall be filed with the City Clerk no later than the fourteenth (14^{th}) day after the day upon which the report and recommendation of the Hearing Examiner or other officer is filed with the City Clerk.

2. Upon the filing of a notice of appeal the City Clerk shall immediately notify the City Attorney

and furnish a copy of the notice to the City Council and the City Departments immediately concerned. Within fifteen (15) days following the filing of a notice of appeal the City Council shall set a time and place for a hearing on the appeal before the City Council or a committee thereof and shall immediately mail or cause to be mailed notice of the time and place to the appellant, provided the time shall be as soon as practicable in order to avoid accumulation of additional interest on the obligations of the local improvement district.

E. Review by the City Council or Council Committee on appeal shall be limited to and shall be based solely upon the record from the hearing below, provided, however, that the City Council or the appropriate City Council committee may permit oral or written arguments or comments when confined to the content of the record of the hearing below. Written arguments shall not be considered unless filed with the City Council or Council Committee prior to the conclusion of the hearing on appeal, and the City Council or committee thereof may determine the appeal on the record, with or without written argument.

F. The recommendation appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. In respect to the matter appealed the City Council may adopt or reject, in whole or in part, the findings, recommendations and decisions of the Hearing Examiner or officer or make such other disposition of the matter as is authorized by RCW 35.44.100 and subsection B of this section above. The City Council shall reduce its determination to writing, file the original in the record of the local improvement district, and transmit a copy of the same to the appellant. No ordinance confirming an assessment roll shall be enacted by the legislative authority until all appeals to the City Council or a committee thereof are decided.
(Ord. 122497, § 1, 2007; Ord. 118409 § 140, 1996: Ord. 109729 § 6C, 1981.)

20.04.100 Hearing records--Requirements.

A. All papers, exhibits, protests, documents, verbatim records of proceedings, transcripts and findings, recommendations and decisions of any kind which are filed in connection with a hearing on an assessment roll, preliminary or final, shall be placed in a file created by the City Clerk to receive all materials related to the assessment rolls of such local improvement district. The City Clerk shall cause the contents of the file to be assigned subnumbers, item by item, in the order of filing. Items filed at hearings shall be assigned the next consecutive subnumber according to the order of filing. All hearings shall be electronically recorded and a memorandum identifying and locating the tapes shall become a part of the file aforementioned.

B. The City Council, the Committee thereof, the Hearing Examiner or the officer conducting a hearing on a final assessment roll shall designate a person acceptable to the City Clerk to act as clerk for the hearing. Such person shall be responsible to the City Clerk for all City files required to be at the hearing and for transmitting to the City Clerk, at the conclusion of the hearing, all files obtained from the City Clerk for use during the hearing together with all additional documents, papers or exhibits of any kind which have become additions to any file during the hearing.

C. Separate files, in such numbers as may be convenient, may be created and maintained for the estimate/contract/construction phase of any local improvement district project, in the City Clerk's discretion. All such files shall be cross-referenced to the pertinent local improvement district number and the ordinance creating said district.
(Ord. 116368 § 226, 1992: Ord. 109729 § 6D, 1981.)

20.04.110 Appeal to City Council.

In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also designate by name or title and by subnumber the items or exhibits in the record to which reference will be made in argument or comment before the City Council or committee. Preparation of a written verbatim transcript of all or any designated part of the hearing shall be at the appellant's initiative and expense, but shall not be required unless within five (5) working days after the filing of a notice of appeal the City Council or designated committee thereof so notifies the appellant, who in no event shall be required to pay the cost of any portion of a verbatim transcript not pertinent to appellant's own appeal.
(Ord. 109729 § 6E, 1981.)

20.04.120 Confirmation by ordinance--Procedure.

The ordinance confirming any assessment roll shall levy and assess against each lot, tract, or parcel of land, or other property appearing upon such roll, the amount charged against the same. Upon the enactment of the ordinance, the roll shall be delivered to the City Clerk, together with a list containing the lots and the names of the owners thereof upon which the collection of local improvement district assessments will be deferred pursuant to RCW 35.43.250. The City Clerk shall forthwith transmit the same to the Director of Executive Administration, with his or her certificate that the same has been duly approved by ordinance, and annually thereafter, in the case of assessments payable by the mode of "payment of bonds," the Director of Executive Administration shall extend the installments of principal and interest upon any unpaid balance as shown upon said approved roll. Interest shall be at the rate fixed by the ordinance confirming the assessment roll.
(Ord. 120794 § 216, 2002: Ord. 116368 § 227, 1992: Ord. 109729 § 6F, 1981.)

20.04.130 Mode of "immediate payment."

A. Whenever the cost and expense of any improvement shall be payable by the mode of "immediate payment," the Director of Executive Administration, upon receipt of the assessment roll as confirmed by ordinance, shall publish a notice in the official newspaper of the City once a week for two (2) consecutive weeks that the roll is in his or her hands for collection, and that all or any portion of the assessment may be paid within thirty (30) days from the date of the first publication of the notice without penalty, interest or cost, and that unless payment be made within such time, the assessment or unpaid portion thereof will become delinquent. Within fifteen (15) days of the first newspaper publication, the Director of Executive Administration shall notify each owner or reputed owner whose name appears on the assessment roll, at the address shown on the tax rolls of the County Comptroller for each item of property described on the assessment roll, of the nature of the assessment, of the amount of his or her property subject to such assessment, of the total amount of the assessment due, and of the time during which such assessment may be paid without penalty, interest or costs. In the case of assessments the collection of which has been deferred pursuant to RCW 35.43.250 and RCW 35.54.100, as now existing or hereafter amended, the notice shall also state that the assessment shall be paid within the period of deferral and that unless the assessment the collection of which has been deferred is paid

within such period of deferral, the assessment or any unpaid portion thereof will become delinquent. Reference to deferred collection assessments may be omitted from the notice when there is no provision for deferred collection in the ordinance creating the district.

B. Upon delinquency a penalty of twenty percent (20%) of the assessment shall attach to, and become part of all assessments. Delinquent assessments shall bear interest until paid at a percentage rate to be fixed by the ordinance confirming the assessment roll. Delinquent assessments, penalties and interest shall forthwith be collected and the lien thereof enforced in the manner provided by statute, the City Charter[1] and ordinances of the City.
(Ord. 120794 § 217, 2002: Ord. 116368 § 228, 1992; Ord. 111640 § 1, 1984; Ord. 109729 § 7, 1981.)
1. Editor's Note: The Charter is set out at the front of this Code.

20.04.135 Foreclosure of delinquent assessments.

When any local improvement district or utility local improvement district assessment is payable in installments, upon failure to pay any installment due, the assessment shall become immediately due and payable, and the collection thereof shall be enforced by foreclosure. The payment of all delinquent installments, together with interest, penalty and costs, at any time before the entry of judgment in foreclosure shall extend the time of payment on the remainder of the assessment installments as if there had been no delinquency or foreclosure. Foreclosure proceedings may be commenced at any time on or before September 15 of the year in which, on the first day of January of such year, two (2) installments of any local improvement district or utility local improvement district assessment were delinquent or the final installment was delinquent for more than one (1) year. In case of foreclosure, there shall be added to the costs and expenses provided by Chapter 35.50 RCW, such reasonable attorneys' fees as the court may adjudge to be equitable, and the amount thereof shall be apportioned to each delinquent assessment or installment appearing on that roll. When one (1) or more delinquent installments are paid before the foreclosure proceedings are completed, payment of such costs shall be a prerequisite to the city's dismissal of such proceedings unless otherwise ordered by the court.
(Ord. 122176, § 1, 2006.)

20.04.140 Mode of "payment by bonds."

A. Whenever the cost and expense of any improvement shall be payable by the mode of "payment by bonds," the Director of Executive Administration, upon receipt of the assessment roll as confirmed by ordinance, shall publish a notice in the official newspaper of the City once a week for two (2) consecutive weeks that the roll is in his or her hands for collection and that all or any portion of the assessment may be paid within thirty (30) days from the date of the first publication of the notice without penalty, interest or cost. Within fifteen (15) days of the first newspaper publication, the Director of Executive Administration shall notify each owner or reputed owner whose name appears on the assessment roll, at the address shown on the tax rolls of the County Comptroller for each item of property described on the assessment roll, of the nature of the assessment, of the amount of his or her property subject to such assessment, of the total amount of the assessment due, and of the time during which such assessment may be paid without penalty, interest or costs. In the case of assessments or of any installment thereof the collection of which has been deferred pursuant to RCW 35.43.250 and RCW 35.54.100, as existing or hereafter amended, the notice shall also state that the assessment or any installment shall be paid within such period of deferral and that unless the assessments or installments, the collection of which have been deferred are paid within such period of deferral, such assessment or unpaid portion or installment thereof will become delinquent.

B. Unless collection of an assessment has been deferred pursuant to RCW 35.43.250 and RCW 35.54.100 as now existing or hereafter amended, the first installment of principal and interest of any assessment payable under the mode of "payment by bonds" shall become due and payable during the thirty (30) day period succeeding a date one (1) year after the date of first publication of the notice by the Director of Executive Administration that the assessment roll is in his or her hands for collection, and annually thereafter each succeeding installment of principal or interest shall become due and payable in like manner. All installments must be paid in sequential order. Whenever an installment shall become due and payable, the Director of Executive Administration shall mail a notice thereof to the owner of the property assessed, when the post office address of such owner is known, but failure to mail the same shall not affect the validity of the assessment lien. Any such installment not paid prior to the expiration of the thirty (30) day period during which such installment is due and payable shall thereupon become delinquent.

C. Whenever the collection of an installment of an assessment has been deferred pursuant to RCW 35.43.250 and RCW 35.54.100 as existing or hereafter amended, the installment of principal or interest shall become due and payable upon expiration of the period of such deferral and each succeeding installment of principal or interest shall become due and payable in like manner. Any such installment not paid within thirty (30) days after expiration of the period of such deferral shall thereupon become delinquent.

D. All delinquent installments shall, until paid, be subject to an additional charge of twenty percent (20%) levied upon the principal and interest due on such installment or installments.
(Ord. 120794 § 218, 2002: Ord. 116368 § 229, 1992; Ord. 111895 § 1, 1984; Ord. 111577 § 1, 1984; Ord. 111003 § 1, 1983; Ord. 110710 § 1, 1982; Ord. 109729 § 8, 1981.)

20.04.145 Installment notes.

In addition to the issuance of bonds and warrants in payment of the cost of any local improvement, the City Council may, in the ordinance ordering any such improvement and adopting the mode of payment, direct the issuance of local improvement installment notes and certificates payable out of the local improvement district fund, and to the extent provided by law from the Local Improvement Guaranty Fund, when such notes are to be held exclusively by one (1) or more other City funds as authorized by RCW 35.45.150. Loans evidenced by such notes shall comply with RCW 35.45.150. The total sum of all outstanding principal on such installment notes shall not at any time exceed One Million dollars ($1,000,000.00).

The Finance Director may refund such installment notes by the issuance of local improvement district bonds or consolidated local improvement district bonds in accordance with RCW Chapter 35.45, and may transfer any such notes, at par plus accrued interest among funds of the City.
(Ord. 118138 § 1, 1996.)

20.04.150 Special fund for each district.

The ordinance creating any local improvement district shall also create a special fund to be called "Local Improvement Fund, District No. _____," into which shall be placed all sums from any source intended for use in the prosecution of the work contemplated by such ordinance and, when the assessment roll has been confirmed, all sums paid on account of such assessment, including all interest and penalty thereon, and in the event of sale of bonds by the City, all proceeds of sale and all premiums and accrued interest on bonds issued for such improvement. The moneys in such local improvement district fund derived from assessments shall be

used for no other purpose than the redemption of warrants drawn upon and bonds issued against the fund to provide payment for the cost and expense of the improvement. Provided, that if the fund is solvent at the time payment is ordered, the Director of Executive Administration may elect to make payment for the cost and expense of the improvement by check.
(Ord. 120794 § 219, 2002: Ord. 120114 § 36, 2000: Ord. 109729 § 9, 1981.)

20.04.160 Bonds--Issuance.

Local improvement bonds shall be issued and sold in such denominations, in such form, and with such terms and conditions as shall be authorized by ordinance and as contemplated by state law, presently codified as RCW Chapter 35.45.
(Ord. 109729 § 10, 1981.)

20.04.170 Bonds--Register required.

The City Finance Director shall keep in his or her office a register of all such bonds issued. He or she shall enter therein the local improvement fund district number, for which the same are issued, and the date, amount and number of each bond and term of payment.
(Ord. 116368 § 230, 1992: Ord. 109729 § 11, 1981.)

20.04.180 Consolidated districts authorized when.

The City may, from time to time, authorize the establishment of consolidated local improvement districts for the purpose of issuing bonds to fund or refund outstanding local improvement district obligations in the manner contemplated by state law, presently codified as RCW 35.45.155 and RCW 35.45.160.
(Ord. 109729 § 12, 1981.)

20.04.190 Delinquent assessments--Foreclosure procedures.

The City Attorney may institute foreclosure proceedings in accordance with RCW Chapter 35.50.
(Ord. 111003 § 2, 1983: Ord. 110710 § 2, 1982: Ord. 109729 § 13, 1981.)

20.04.200 Warrants--Call and payment.

A. It shall be the duty of the City Finance Director to call and pay in numerical order such outstanding warrants against any particular improvement fund as he or she may be able to pay with the money on hand credited to such fund, and whenever he or she shall have money on hand to the credit of such fund, but not sufficient to pay the whole of the next succeeding outstanding warrant, he or she may call in and pay such portion thereof as shall exhaust the amount of such fund; provided, however, that the City Finance Director may call the warrants issued to the contractor on estimates of the department head supervising the construction in any local improvement district as soon as the City Council has, by resolution or ordinance, fixed a date for the issuance of bonds or installment notes in respect to such local improvement district.

B. Whenever the City Finance Director shall pay a portion of any warrant as above provided, he or she shall endorse upon such warrant the date and amount of such payment and take a receipt from the holder thereof, showing the number and description of such warrant and the date and amount so paid, which receipt the

said Director shall record as a voucher for the money so paid.
(Ord. 116368 § 231, 1992: Ord. 111640 § 2, 1984: Ord. 109729 § 14, 1981.)

20.04.210 Contracts--Requirements generally.

A. Contracts for local improvements shall provide for a retainage from the moneys earned by the contractor on estimates during the progress of the improvement or work of a sum to be used as a trust fund for the protection and payment of any person or persons, mechanics, subcontractors or material men who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to RCW Title 82 which may be due from subcontractor. Said fund shall be computed and administered pursuant to Chapter 205, 1st Ex. Sess., Laws of 1977, presently codified as RCW 60.28.010. No improvement shall be deemed completed until the department head supervising the project shall have filed with the City Clerk a statement in duplicate declaring the same to have been completed.

B. During the time allowed for the completion of the contract the department head supervising the project shall each month issue an estimate of the amount of work completed by the contractor during the preceding month; provided, that after the expiration of the time allowed for such completion no estimate other than the final estimate shall be issued. The final estimate shall include a statement of the amount of money due the contractor, a statement of the amount of money expended for abstracts, advertising, accounting and collection, and engineering expense incurred prior to the expiration of the time allowed for the completion of the contract. The City's engineering expenses incurred after the time allowed for the completion of the contract, shall be borne by the contractor as the minimum penalty for failure to complete the work within the specified time.

C. After the issuance of the estimate by the department head supervising the project, the Director of Executive Administration shall, on or about the twenty-fifth day of the month, deliver to the contractor money or warrants in an amount equal to such estimate less the percentage to be retained therefrom as herein provided. After the expiration of thirty (30) days following the final acceptance of said improvement or work and the expiration of the time for the filing of lien claims as provided by law, said reserve, or all amounts thereof in excess of a sufficient sum to meet and discharge the claims of material men and laborers who have filed their claim as provided by law, together with a sum sufficient to defray the cost of such action, and to pay attorney's fees, shall be paid to said contractor.

D. Such warrants shall be drawn against the local improvement district fund and shall bear interest at the rate prevailing in the market from the date of issuance until redeemed; provided, that warrants shall not bear interest after two hundred forty (240) days from the time fixed in the proposal and contract for the completion of the contract.

E. If the work is completed within the time fixed by the contract, or any extension thereof, and there is no money available for payment of contractors' warrants at the expiration of the two-hundred-forty (240) day period above mentioned, the contractor may be paid by separate non-interest-bearing warrants a sum equivalent to interest at the rate prevailing in the market on outstanding warrants from the date when interest on such warrants ceased to the date when funds are available for the redemption thereof.

F. If an extension of time is granted for the completion of the contract and the work is not

completed when the extension period has expired, the contractor may be paid by separate non-interest-bearing warrants a sum equivalent to interest at the rate prevailing in the market on outstanding warrants from the day when interest ceased, as above mentioned, to a date two hundred forty (240) days from the date on which the extension period expires.

G. The Director of Executive Administration shall immediately upon receipt of the final estimate for a local improvement, file in the office of the City Clerk a certificate setting forth the total amount of said final estimate, together with accrued interest on warrants issued or to be issued.

H. All warrants issued shall be redeemed in cash, in order of issuance within two hundred forty (240) days after the completion and acceptance of the contract, so far as payment into the local improvement district fund shall permit. Warrants not so redeemed in cash shall, except as otherwise provided in this chapter, be redeemed in order of their issuance in local improvement district bonds, the lowest numbered warrants being redeemed with the lowest numbered bonds, if the mode of payment is "payment by bonds"; or, if the mode of payment be "immediate payment," by the issuance of local improvement district fund warrants with interest at the rate prevailing in the market from the date of issuance until redeemed, such redemption to be made in the same manner as that followed under the mode of payment "payment by bonds."

I. If the mode of payment is "payment by bonds" and the bonds are sold as provided in this chapter, all such warrants not so redeemed in cash as above provided, shall be redeemed in order of issuance in cash out of the proceeds of the sale of such bonds.
(Ord. 120794 § 220, 2002; Ord. 116368 § 232, 1992; Ord. 109729 § 15, 1981.)

20.04.220 Contracts--To lowest bidders--Notice--Check with bid.

All the work to be done in any local improvement district shall be let in one (1) contract or, at the option of the head of the department supervising the project, the work may be subdivided and separate contracts be let for each subdivision thereof. All local improvements to be made by contract shall be let to the lowest and best bidder therefor. Before the award of any such contract, there shall be published for at least two (2) days in the official newspaper of the City a notice, the last publication being at least ten (10) days before the letting of such contract, inviting sealed proposals for such work, and the plans and specifications whereof must, at the time of publication of such notice, be on file in the office of the department head supervising the project, subject to public inspection. Such notice shall state generally the work to be done and shall call for proposals for doing the same, sealed and filed with the City as specified in the notice, on or before the day and hour named therein. All bids shall be accompanied by a certified check, payable to the order of the Director of Executive Administration, or a surety bond for a sum not less than five percent (5%) of the amount of the bid, and no bid shall be considered unless accompanied by such check or bond. If, in the discretion of the head of the department supervising the project, the work should be done by the City by day labor, and under the management of the department, it is hereby empowered to proceed with the work irrespective of all such bids, and, in such case, all bids shall be rejected; provided, however, the work shall not be done by the City if the determination so to do is in conflict with the provisions of RCW 35.22.620.
(Ord. 120794 § 221, 2002: Ord. 116368 § 234, 1992: Ord. 109729 § 16, 1981.)

20.04.230 Contracts--Opening bids--Acceptance, rejection and forfeiture conditions.

At the time and place named, such bids shall be publicly opened and read; no bid shall be rejected for

informality but shall be received if it can be understood what is meant thereby. The department head supervising the project shall proceed to determine the lowest and best bidder, and may let such contract to such bidder, or if all bids received exceed by ten percent (10%) preliminary cost estimates prepared by an independent consulting engineer or registered professional engineer retained for that purpose by the City, he or she may reject all of them and re-advertise, or may proceed to do the work under the direction of the department head supervising the project by "day labor," and, in case of rejection of all bids all checks shall be returned to the bidders; but if the contract be let, then, and in such case, all checks shall be returned to the bidders, except that of the successful bidder, which shall be retained until the contract be entered into for making such improvement between the bidder and the City, in accordance with such bid, and the duly approved and accepted bond therefor be filed in the office of the City Clerk. If the successful bidder fails to enter into the contract in accordance with his bid within ten (10) days from the date at which he is notified that he is the successful bidder, the said check and the amount thereof shall be forfeited to the City, and the same shall be delivered to the Director of Executive Administration, who pay the same into the City Treasury to the credit of the appropriate Local Improvement District Fund. Neither the department head nor the City Council shall have the power to remit such forfeiture.
(Ord. 120794 § 222, 2002: Ord. 116368 § 234, 1992: Ord. 109729 § 17, 1981.)

20.04.235 Alternative procurement methods.

The City of Seattle acknowledges the present availability and use of Chapter 39.10 RCW for contracts for local improvements, and that such authority is in addition to such other authority set forth in this Chapter 20.04 of the Seattle Municipal Code. Nothing in this chapter shall limit the City's authority to use alternative procurement methods now or hereafter authorized by law, including but not limited to Chapter 39.10 RCW.
(Ord. 122045 § 3, 2006.)

20.04.240 Subdistricts authorized--Conditions.

Whenever the legislative authority shall provide for the construction of any trunk sewer or trunk water main, it may divide the territory to be served thereby into subdistricts, and the construction of the improvement may be made under separate contracts for such subdistricts thereof. The legislative authority may levy assessments in each subdistrict and issue bonds to be paid by the collection of assessments against property in each subdistrict independent of any other subdistrict; provided, however, that the subdistricts shall be set forth in the ordinance providing for the improvement, and when it is proposed to pay any portion of the cost of the improvement from City funds, the ordinance shall specify approximately the amount to be apportioned to each subdistrict.
(Ord. 109729 § 18, 1981.)

20.04.250 Unit water main assessments.

The cost of a unit water main is the reasonable cost of a local water main and its appurtenances suited to the requirements of the territory served. Such cost may be assessed against the property specially benefited thereby. The remaining portion of the cost and expense of any water main, except where the legislative authority shall provide for the creation of a trunk water main district, shall be paid from such fund as the legislative authority shall by ordinance direct.
(Ord. 109729 § 19, 1981.)

20.04.260 Costs--City's contribution to be specified in ordinance.

Every ordinance ordering any local improvement shall declare what, if any, portion or proportionate amount of the cost and expense thereof shall be borne by the City out of its general fund, or other fund, and shall direct that the remainder of the cost and expense be assessed against the property within the district created therefor in the manner provided by law.
(Ord. 109729 § 20, 1981.)

20.04.270 Items of cost and expense for estimates.

All estimates of the cost and expense of local improvements shall include the following:

A. The cost of all of the construction or improvement authorized for the district including, but not limited to, that portion of the improvement within street intersections;

B. The estimated cost and expense of all engineering and surveying necessary for the improvement done under the supervision of the City;

C. The estimated cost and expense of ascertaining the ownership of the lots or parcels of land included in the assessment district;

D. The estimated cost and expense of advertising, mailing and publishing all necessary notices;

E. The estimated cost and expense of accounting, clerical labor, and of books and blanks extended or used on the part of the City in connection with the improvement;

F. The cost of acquisition of rights-of-way, property, easements or other facilities or rights, whether acquired by eminent domain, purchase, gift, or in any other manner; provided, that any of the costs enumerated in this subsection may be excluded from the cost and expense to be assessed against the property in the local improvement district if the legislative authority so designates by ordinance at any time and may be paid from any other moneys available therefor;

G. The cost of legal, financial, and appraisal services and any other expense incurred by the City for the district or in the formation thereof, or by the City in connection with the construction or improvement and in the financing thereof, including the issuance of any bonds;

H. A charge against each description of property in the following amounts, to wit: in case of "immediate payment," Six Dollars ($6.00) per description; in case of assessment payable in three (3) annual installments, Eighteen Dollars ($18.00) per description; in case of assessment payable in five (5) annual installments, Twenty-six Dollars ($26.00) per description; in case of assessment payable in ten (10) annual installments, Forty-six Dollars ($46.00) per description; in case of assessment payable in fifteen (15) annual installments, Sixty-six Dollars ($66.00) per description; in case of assessment payable in twenty (20) annual installments or more of either principal or interest, Eighty-six Dollars ($86.00) per description; which is the charge of accounting, clerical labor, books and blanks used by the City; provided, however, that when any assessment payable in installments is paid in full within the thirty (30) day period fixed by law for the payment of assessments without interest, the Director of Executive Administration shall allow a rebate of the charge in

this subsection in excess of the sum of Six Dollars ($6.00) per description. In all instances wherein the contractor doing the work in any local improvement district deposits cash with the Director of Executive Administration under the terms of his or her contract to cover items of cost shown by the department head supervising the contract in his or her final estimate and specified in this section, the Director of Executive Administration shall transfer the amount of such rebate from the fund in which it has been deposited to the appropriate local improvement fund.
(Ord. 120794 § 223, 2002; Ord. 116368 § 235, 1992; Ord. 109729 § 21, 1981.)

20.04.280 Segregation of assessments.

A. The Director of Executive Administration is authorized to collect and receive from any owner or owners of any subdivision or subdivisions of any lot, tract or parcel of land, upon which a local improvement assessment has been, or may hereafter be, made, such portion of the assessment or assessments levied or to be levied against such lot, tract or parcel of land in the payment of said local improvement as the Director of Transportation shall certify to be chargeable to such subdivision or subdivisions in accordance with state law.

B. Whenever, on account of the filing of a plat or replat on account of a sale or contract to sell or other proper evidence of the change of ownership of a divided portion of any lot, tract or parcel of land assessed for local improvements, it shall appear to be to the best interest of the City to segregate a local improvement district assessment thereupon, the Director of Transportation is authorized to make the proper certification as provided in this chapter, upon the written application of the owner, approved by the Director of Executive Administration, and confirmed by the City Council by resolution, and upon payment of the fee hereinafter provided. In all instances it shall be the duty of the Director of Transportation to submit the necessary Resolution for Segregation for City Council approval. A fee of Sixty Dollars ($60.00) shall be charged for each tract of land for which a segregation is to be made together with a fee of Ten Dollars ($10.00) per description for each description added to the assessment roll, to defray the cost of the engineering and clerical work involved. Such fees shall be paid to the Director of Executive Administration and shall be deposited in the General Fund.

C. Upon receipt of a certified copy of a resolution of the City Council authorizing segregation, the Director of Executive Administration shall enter the segregation, together with the amount of the bonded interest with respect thereto, upon the assessment records and, upon payment thereof, together with any penalties accruing according to law and any additional interest due with respect to the segregated portion, give a proper receipt; provided, that this chapter shall not authorize the segregation of any assessment which has been delinquent for a period of two (2) years or more, or in any case where it appears that the property, when or as already divided according to the requested segregation, is not or would not be of sufficient value, or is not or would not be in such condition or title, as to provide adequate security for the payment of the total amount of the unpaid assessment, penalties, interest and costs charged or chargeable against the undivided whole. In such instance, upon a recommendation by the Director of Executive Administration, the City Council shall determine such question of fact. No segregation of any assessment on unplatted lands or large platted tracts shall be made until a plat thereof has been furnished to the Director of Transportation by the applicant, showing that the proposed segregation of property will conform to the system of streets as platted in adjacent territory. In all such instances, upon a recommendation by the Director of Transportation, the City Council shall determine such question of fact.
(Ord. 120794 § 224, 2002: Ord. 118409 § 141, 1996: Ord. 116368 § 236, 1992: Ord. 109729 § 22, 1981.)

20.04.290 Cancellation of assessment--Release of assessment lien.

The Director of Executive Administration is authorized to cancel on the books and records of a local improvement district the assessment or an installment of an assessment, interest and penalties imposed by or for the district when:

A. The amount due shown on the district's books and records has been found to be void by a final judgment of a court with jurisdiction over the local improvement district;

B. RCW 35.50.050, which limits the time for commencing foreclosure proceedings, bars a foreclosure action to enforce the payment;

C. King County has resold the property to pay property taxes, the resale is free and clear of the assessment lien, and pursuant to RCW 35.49.160, the City has received or will receive from the proceeds of the county sale such funds as are due to the district; or

D. The City Attorney by written opinion advises the Director of Executive Administration that the assessment, interest or penalty to be cancelled is void or that the law otherwise prevents its collection.

Upon cancellation of an assessment, interest or penalty, the Director of Executive Administration may release the assessment lien upon the property to secure the payment which was cancelled. A release affects only the payment(s) or liens named in the release document and does not release other payments or other liens upon the same property of other local improvement districts respectively.
(Ord. 120794 § 225, 2002: Ord. 116368 § 237, 1992: Ord. 113320 § 1, 1987.)

Chapter 20.08

LOCAL IMPROVEMENT GUARANTY FUND

Sections:

20.08.010 Fund established.

There is created in the City Treasury the special fund established by Chapter 209, Laws of Washington, 1927, RCW Chapter 35.54, and designated "Local Improvement Guaranty Fund," for the purpose of guaranteeing, to the extent thereof and in the manner therein contemplated, the payment of local improvement bonds and warrants and for paying the amounts of assessments, the collection of which has been deferred pursuant to RCW 35.43.250, 35.50.050, and 35.54.100, as now existing or hereafter amended.
(Ord. 116368 § 238, 1992: Ord. 102560 § 12, 1973: Ord. 62364 § 1, 1932.)

20.08.020 Annual tax levy.

In order to maintain the fund and to effectuate the purposes of this chapter, there shall be levied each

year by the City Council in its annual tax levy, a tax upon all of the property in the City subject to taxation sufficient to meet the financial requirements thereof; provided that the sums so levied in any year shall not be more than sufficient to pay the outstanding warrants on the fund and to establish therein a balance which combined levy in any one (1) year shall not exceed five (5) percent of the outstanding obligations thereby guaranteed. The tax levies authorized and directed shall be additional to, and, if need be, in excess of, any and all statutory and Charter limitations applicable to the tax levies of the City. There shall be paid into the fund the interest received from bank deposits of the fund, as well as any surplus remaining in any local improvement fund guaranteed under this chapter, lawfully applicable thereto, and payments of principal and interest applicable for assessments, or installments thereof, the collection of which has been deferred pursuant to Chapter 137, Laws of 1972, First Extraordinary Session as now existing or hereafter amended.
(Ord. 102560 § 13, 1973: Ord. 62364 § 2, 1932.)

20.08.030 Issuance and payment of warrants or checks.

In order to effectuate the purposes of this chapter, the Director of Finance is authorized to from time to time direct the Director of Executive Administration to draw and pay warrants drawing interest at a rate not to exceed six (6) percent on the Local Improvement Guaranty Fund for the purposes contemplated in Section 20.08.010; provided, that such warrants shall at no time exceed five (5) percent of the outstanding bond obligations guaranteed by the fund. Warrants on the Local Improvement Guaranty Fund shall be numbered serially in the order of their issuance. If the Local Improvement Guaranty Fund is solvent at the time payment is ordered, the Director of Executive Administration in consultation with the Director of Finance may elect to make payment by check.
(Ord. 120794 § 226, 2002: Ord. 120114 § 37, 2000: Ord. 116368 § 239, 1992: Ord. 70894 § 1, 1941: Ord. 62364 § 3, 1932.)

20.08.040 Defaulted interest coupons, bonds or warrants.

A. As among the several issues of bonds or warrants guaranteed by the fund, no preference shall exist, but defaulted interest coupons, bonds and warrants shall be purchased out of the fund in the order of their presentation. Whenever any defaulted interest coupons, bonds or warrants shall be presented to the City Finance Director for purchase, if the outstanding warrants against the Local Improvement Guaranty Fund (including the amount of the coupons, bonds or warrants so presented) do not then exceed five (5) percent of the outstanding bond obligations guaranteed by the fund, the City Finance Director shall examine such coupons, bonds or warrants and if satisfied that the same are guaranteed by such fund he shall receive and keep such coupons, bonds or warrants, issuing his or her receipt therefor to the holder of the same, together with a warrant upon the Local Improvement Guaranty Fund in the amount thereof. Warrants so issued shall be paid from the Local Improvement Guaranty Fund in the order of their serial numbers.

B. If at the time any defaulted interest coupons, bonds or warrants are presented for purchase the warrants upon the Local Improvement Guaranty Fund then outstanding (including the amount of the coupons, bonds or warrants so presented) shall exceed five (5) percent of the outstanding bond obligations guaranteed by the fund, the City Finance Director shall examine such coupons, bonds or warrants and if satisfied that the same are guaranteed by such fund he or she shall issue to the holder a presentation certificate describing such coupons, bonds or warrants and showing the date and time of the day when the same were so presented for purchase, and the name and address of the holder thereof. Such presentation certificate shall be issued and numbered serially in the order of the presentation for purchase of defaulted interest coupons, bonds or warrants

by the respective holders thereof. Whenever the amount of outstanding warrants against the Local Improvement Guaranty Fund shall be retired in an amount sufficient to authorize the issuance of a warrant upon the fund for the purchase of the coupons, bonds or warrants described in any presentation certificate it shall be the duty of the City Finance Director to notify the holder of such presentation certificate by mail at the address stated in the presentation certificate; and upon presentation to him of the presentation certificate, together with the coupons, bonds or warrants described therein, the City Finance Director shall receive and keep such coupons, bonds or warrants, issuing his receipt therefor together with his or her warrant upon the Local Improvement Guaranty Fund covering the same. Such warrants shall be issued in the order of the serial numbers of the presentation certificates.
(Ord. 116368 § 240, 1992: Ord. 70894 § 2, 1941: Ord. 62364 § 4, 1941.)

Chapter 20.12

DEFERRAL OF ASSESSMENT COLLECTION

Sections:

Statutory Reference: For statutory provisions on the deferral of collection of assessments for economically disadvantaged persons, see RCW 35.43.250.

20.12.010 Authorization.

The collection of an assessment upon property assessed by a local improvement district, or any installment thereof, may be deferred as provided in RCW 35.43.250 and 35.54.100, as now existing or hereafter amended, upon the application of a person responsible for the payment of an assessment, who is economically disadvantaged, whenever authorized in the ordinance creating the district. Unless otherwise provided in such ordinance, or in the ordinance confirming an assessment roll for such district, the terms and conditions of this chapter shall establish the terms and conditions for the deferral of collection of such assessments, the persons eligible therefor, the rate of interest, the duties of the respective City officials and the obligations of the Local Improvement Guaranty Fund with respect thereto.
(Ord. 102560 § 1, 1973.)

20.12.020 Eligibility criteria.

A. The term "person responsible for payment of an assessment" means the owner of the property to be assessed (including life tenants) and other persons, who under the terms of a recorded contract of purchase, recorded mortgage, recorded deed of trust transaction or recorded lease is responsible under penalty of forfeiture, foreclosure, or default as between vendor/vendee, mortgagor/mortgagee, grantor and trustor/trustee and grantee, and beneficiary and lendor, or lessor and lessee for the payment of the local improvement district assessment.

B. A person responsible for payment of an assessment may qualify as "economically

disadvantaged" when that person has annual income that when combined with the annual income of all adult household members does not exceed two hundred (200) percent of the poverty level for the number of individuals in the household as computed annually by the U.S. Government or the City and as determined by the Human Services Department.
(Ord. 121574 § 1, 2004; Ord. 104953 § 1, 1975: Ord. 102560 § 2, 1973.)

20.12.030 Assessment--Deferral of collection--Time limitations.

Whenever an ordinance creating a local improvement district shall hereafter authorize deferral of collection of local improvement assessment upon properties benefited thereby pursuant to RCW 35.43.250 and 35.54.100, the following terms and conditions contained in the statute shall apply:

A. The amount of the assessment or an installment thereof, the collection of which has been deferred, shall be paid out of the Local Improvement Guaranty Fund.

B. The Local Improvement Guaranty Fund shall have a lien on the benefited property in an amount equal to the amounts paid by such fund, together with interest as provided by the ordinance creating the district.

C. The collection of any particular installment shall not be deferred longer than two (2) installment periods, provided, the foregoing shall not preclude the deferral of collection of other installments of such assessment.

D. Local improvement assessment obligations, the payment of which has been deferred, shall become due and payable upon the earliest of the following dates:

1. Upon the date and pursuant to the conditions established by the agreement for deferral of collection;

2. Upon the sale of property which has a deferred assessment lien upon it, from the purchase price; or

3. Upon the death of the person to whom the deferral was granted from the value of his estate; except, a surviving spouse shall be allowed to continue the deferral of collection, which shall be payable by the spouse as provided by the terms and conditions of the deferral in accordance with this chapter.

E. The time during which collection is deferred shall not be a part of the time limited for commencement of an action to collect the amount deferred or to enforce the local improvement assessment lien.

F. The collection of an assessment shall in no event be deferred beyond the time of the dissolution of the local improvement district.

G. The party granted the deferment of collection of an assessment, or installment thereof, shall provide assurance of property security acceptable in form and substance to the City Engineer for the payment of such assessment, or installment thereof.
(Ord. 102560 § 3, 1973.)

20.12.040 Applications for deferral--Death of spouse--Disabling injury.

Applications for deferral of collection of an assessment that involve any of the following must be made in writing at or before the hearing of the legislative authority for confirmation of the assessment roll:

A. Deferral of collection or an installment payment plan for payment of an assessment levied for total immediate payment;

B. Deferral of collection of the first installment of an assessment payable over multiple installments; and

C. Deferral of collection of assessments by a plan providing phased payments during the duration of the district, with a series of multiple deferrals of successive installments.

An application for deferral of collection of one or more particular installments subsequent to confirmation of the assessment roll may be made on or before such installment becomes delinquent, should death of a spouse or head of household, disabling injury, or other serious adversity render a person responsible for payment of an assessment economically disadvantaged.

If the application is approved, the applicant must return a properly signed, notarized agreement with the City no later than thirty (30) days after the date the installment becomes delinquent.
(Ord. 111640 § 3, 1984: Ord. 102560 § 4, 1973.)

20.12.050 Deferred assessment interest rate.

The assessment, or the installment thereof, upon which collection has been deferred, shall bear interest during the period of deferral at the same rate as borne by the note, warrant, or bonds issued by the City to pay the cost and expense of the improvement.
(Ord. 102560 § 5, 1973.)

20.12.060 Termination of deferred assessment.

The period of deferral of collection of an assessment or an installment thereof shall not extend beyond a fixed date of termination of occupancy of the person responsible for payment of an assessment under a leasehold or fee of definite duration, unless the owner of the reversion or remainder assents to such deferral.
(Ord. 102560 § 6, 1973.)

20.12.070 Application of payments.

Moneys received for payment of assessment installments shall be applied toward the earliest unpaid installment unless the party making the payment shall direct otherwise.
(Ord. 102560 § 7, 1973.)

20.12.080 Administration by City officials.

A. The City Director of Transportation shall administer the deferral of collection of assessments, except such duties as are assigned by this chapter or by law to other City officials. The City Director of Transportation shall have the power and authority to:

1. Give notice to property owners of the availability of ordinance procedures for deferral of collection of assessments;

2. Accept and process applications for deferral of collection of assessments, and amendments thereof as appropriate;

3. Conclude with the persons responsible for payment of an assessment an agreement setting the terms and conditions consistent with this chapter and state law, including, on request and at his or her discretion, without extra charge, provision for billing and payment of installment on a monthly or quarterly basis;

4. Secure execution and filing of any necessary instruments, and, upon notice from the Director of Executive Administration, note satisfaction thereof;

5. Terminate the deferral of collection of assessments upon occurrence of conditions that render the assessment or installments thereof due and payable;

6. Recommend to the Director of Executive Administration the amounts to be paid from the Local Improvement Guaranty Fund to the fund of such local improvement district upon the making of such deferral;

7. Take such other actions as necessary and appropriate to administer this chapter in accordance with RCW 35.43.250, 35.49.010, 35.50.050, and 35.54.100. The agreement with the person responsible for an assessment setting forth the terms and conditions of deferral of collection of the assessment shall be recorded with the King County Office of Records and Elections and transmitted to the City Clerk, and a copy thereof to the Director of Executive Administration. All records retained by the Director of Transportation containing the application and information received in processing an application shall be kept confidential.

B. The Director of Executive Administration shall draw such warrants upon the Local Improvement Guaranty Fund as necessary and appropriate to make payments to the local improvement district fund for assessments, the collection of which has been deferred, and shall report annually to the City Council and the Director of Finance about the amount of payments made from the Local Improvement Guaranty Fund for assessments or installments deferred pursuant to this chapter and RCW 35.43.250, 35.50.050, and 35.50.100, as now existing or hereafter amended; the current balance in such fund and outstanding obligations guaranteed by such fund. If the Local Improvement Guaranty Fund is solvent at the time payment is ordered, the Director of Executive Administration may elect to make payment by check.
(Ord. 121574 § 2, 2004; Ord. 120794 § 227, 2002: Ord. 120114 § 38, 2000: Ord. 118409 § 142, 1996: Ord. 116368 § 241, 1992: Ord. 111640 § 4, 1984: Ord. 102560 § 8, 1973.)

Chapter 20.16

RECONSTRUCTION OF WATER MAINS

Sections:

20.16.010 Ungraded streets--Assessment of abutting property.

Whenever it becomes necessary to lay water mains in ungraded streets to supply water to residents of the district abutting on the streets, and the abutting property is assessed for the laying of the mains, such property shall be again assessed for the re-laying or reconstruction thereof when the streets are graded to permanent grade; provided that if, at the time of the laying of the mains originally, a permanent grade on the streets is established, the City Council may order the mains laid to permanent grade, as near as may be, and assess the entire cost thereof to the improvement district.
(Ord. 27209 § 1, 1911.)

20.16.020 Ungraded streets--Payments from Water Fund.

Whenever it becomes necessary to lay water mains in ungraded streets that do not serve that particular district, or specially benefit it, no charge or assessment for re-laying or reconstructing the mains shall be made against the district abutting on the streets when the same are graded, but such cost shall be paid from the Water Fund of the City.
(Ord. 27209 § 2, 1911.)

20.16.030 Regrading--Payment when no benefit to abutting property.

Whenever general public necessity demands the regrade of any street already improved and with established grades, and such regrade is made, and it becomes necessary to adjust, relay or reconstruct water mains by reason thereof which do not serve, or specially benefit the district abutting on such streets, no charge for such reconstruction or adjustment shall be made against the abutting property of such streets or against the district assessed for the regrade, but the cost thereof shall be paid from the General Fund of the City.
(Ord. 27209 § 3, 1911.)

20.16.040 Regrading--When desired by property owners.

Whenever it is desired by owners of property abutting on any street or streets that such street or streets be regraded, and such regrade is made, and by reason thereof it becomes necessary to adjust, re-lay or reconstruct any water mains in the street or streets not used for the purpose of serving the property abutting thereon, the entire cost of such adjustment or reconstruction may be assessed against the General Fund; provided, if such regrade is instituted by petition and the petitioners agree to bear any portion of the cost of adjustment, re-laying or reconstruction, or if the improvement is instituted by resolution of the City Council and the resolution declares the purpose of the Council to assess any portion of the cost to the property abutting on the streets to be regraded, in such event the portion of the cost as provided by either the petition or the

resolution shall be assessed against the property in the district, and the balance thereof against the General Fund.
(Ord. 27209 § 4, 1911.)

20.16.050 Regrading--Assessment of costs.

Whenever, whether for the benefit of the public at large or for the enhancement of the value and improvement of property adjacent or tributary to any district, the regrade of the district is desired, and by reason thereof it becomes necessary to adjust or reconstruct water mains in the district which specially benefit and furnish water to the property abutting or adjacent to the streets to be regraded, the entire cost of such adjustment or reconstruction, up to and including twelve (12)-inch mains, shall be assessed against the property lying within the bounds of such district, and the cost of adjusting mains in excess of twelve (12) inches, and up to twenty-four (24) inches in size, shall be as follows: a sum equal to the cost of adjusting, re-laying or reconstructing twelve (12)-inch mains, together with fifty (50) percent of the excess cost by reason of the increased size of the main shall be assessed to the abutting property; provided, that the resolution and ordinance ordering the work and creating the district shall specify the cost as provided in this section, but no charge or assessment shall be made upon property lying within the district for the adjusting, re-laying or reconstruction of mains where they exceed twenty-four (24) inches in size for that proportion of the cost caused by the excess of twenty-four (24) inches.
(Ord. 27209 § 5, 1911.)

20.16.060 Assessment of costs for water and fire protection during reconstruction.

Whenever any regrade is made, the entire cost of reconstruction of existing connections to water mains, hydrants, etc., which must be maintained to provide water and fire protection to the district during the progress of the regrade work, shall be assessed to the regrade district.
(Ord. 27209 § 6, 1911.)

20.16.070 Substitution or enlarging of mains--Costs.

Whenever, in the prosecution of any of the improvements contemplated in this chapter, it is determined by the Seattle Public Utilities to substitute or enlarge the mains passing through the district, the entire cost of such substitution or enlarging, in excess of the reconstruction of existing mains, shall be borne by the Water Fund.
(Ord. 118396 § 15, 1996: Ord. 27209 § 7, 1911.)

Chapter 20.20

FILLING OF PRIVATE PROPERTY

Sections:

Statutory reference: For statutory provisions on filling and draining lowlands, see RCW Ch. 35.56.

20.20.010 Proceedings for making improvements and levying assessments.

Whenever the City Council shall order any improvement to be made or work to be done, by filling private property where necessary, as a sanitary measure which shall confer special benefits upon any property in the City, and it is desired to pay the whole or any part of the cost and expense of the same by and from special assessments levied upon the property specially benefited thereby, the proceedings for making such improvements and levying and collecting special assessments for the purpose of paying the whole or any part of the cost and expense thereof and for paying such cost and expense may be had and conducted as provided in this chapter.
(Ord. 35083 § 1, 1915.)

20.20.020 Establishment of new grade--Survey by Board of Public Works.

Whenever the City shall establish or shall have established the grade of any street or streets, alley or alleys, at a higher elevation than any private property abutting thereon, thereby rendering the drainage of such private property or any part thereof impracticable without the raising of the surface of such private property, or whenever the surface of any private property in the City shall be so low as to make sanitary drainage thereof impracticable, the City Council may determine by resolution that a fill of such private property is necessary as a sanitary measure. The Council shall in such resolution direct the Board of Public Works to make the necessary surveys of the district proposed to be improved and the necessary plans and specifications for such improvement, and to submit, within twenty (20) days after the first publication of such resolution, a report to the City Council to be filed with the City Clerk giving a description of the property proposed to be improved by such fill, the grade to which it is necessary to fill the same and the estimated cost thereof.
(Ord. 35083 § 2, 1915.)

20.20.030 Resolution of intent.

The City Council shall before establishing the new grade of such property or providing for such fill, first pass a resolution declaring its intention to make such improvement and giving in such resolution a description of the property proposed to be improved by such fill, the estimate of the cost of the same, and stating that such cost is to be assessed against the property benefited thereby, and shall fix a time not less than thirty (30) days after the first publication of the resolution as specified in this section within which protests against such proposed improvement may be filed in the office of the City Clerk. The Council shall in such resolution, or in the ordinance providing for such improvement, declare the mode of making payment for such portion of the cost and expense of such improvement as shall be chargeable against such private property. At the time named in such resolution, the Council shall proceed to consider such resolution and report of the Board of Public Works on the matters referred to it in such resolution, together with all protests filed against the improvement, if any such protests be filed, and if the Council shall notwithstanding such protests and after full hearing thereof, if any protestant shall ask for such hearing, determine that it is necessary to fill such private property, or any portion or portions thereof, as a sanitary measure, the Council shall then or at a subsequent time proceed to enact an ordinance providing for such improvement.
(Ord. 35083 § 3, 1915.)

20.20.040 Establishment of local improvement district.

Whenever the Council shall order any such improvement to be made, it shall in the ordinance ordering the same establish a local improvement district to be called "Local Improvement District No. _____," which shall include all the property found by the Council as aforesaid to require such fill as a sanitary measure.
(Ord. 35083 § 4, 1915.)

20.20.050 Modes of payment.

A. There shall be two (2) modes of making payment for such portion of the cost and expense of the improvements provided for in this chapter, as shall be chargeable against the local improvement district created as provided in this chapter: "immediate payment" and "payment by bonds." The mode adopted shall be the mode set forth in the resolution declaring the intention of the Council to make the improvement, if such resolution specifies the mode; if such resolution fails to specify the mode, then it shall be the mode specified in the ordinance ordering the improvement.

B. In all cases where the mode of "payment by bonds" is directed, the assessments shall be payable in equal annual installments the number of which shall be less by two (2) than the number of years the bonds or warrants may run.

C. Such bonds by their terms shall be made payable on or before a date not to exceed twelve (12) years from and after the date of the issue of such bonds, which latter date may be fixed by resolution or ordinance by the City Council provided that whenever the improvement shall lie wholly or partly within the boundaries of any commercial waterway district, organized and existing under the provisions of Chapter 243 of the Laws of 1907, of the State of Washington, and the acts amendatory thereof, such bonds may be made payable on or before a date not to exceed twenty-two (22) years from and after the date of the issue of such bonds. Such bonds shall bear interest at the rate provided by the ordinance ordering the improvement, but not exceeding eight (8) percent per year, such interest to be payable annually. Each bond shall have attached thereto interest coupons for each interest payment.
(Ord. 35083 § 5, 1915.)

20.20.060 Applicability of Ord. 53493.

Ordinance 53493,1 approved August 5, 1927, shall apply to all improvements made under the provisions of this chapter and to all proceedings relating to such improvements and to the making, collection and enforcement of special assessments therefor, and to the mode of paying for the same, except insofar as the same shall be in conflict with this chapter.
(Ord. 66638 § 1, 1936: Ord. 35083 § 6, 1915.)
1. Editor's Note: Ord. 53493 is not included in this codification as it is presently undergoing comprehensive revision.

Subtitle II

Public Works

Chapter 20.32

ART IN PUBLIC WORKS CONSTRUCTION

Sections:

20.32.010 Purpose.

The City accepts a responsibility for expanding public experience with visual art. Such art has enabled people in all societies better to understand their communities and individual lives. Artists capable of creating art for public places must be encouraged and Seattle's standing as a regional leader in public art enhanced. A policy is therefore established to direct the inclusion of works of art in public works of the City.
(Ord. 102210 § 1, 1973.)

20.32.020 Definitions.

A. "Office" means the Office of Arts and Cultural Affairs.

B. "Commission" means the Seattle Arts Commission.

C. "Construction project" means any capital project paid for wholly or in part by the City to construct or remodel any building, structure, park, utility, street, sidewalk, or parking facility, or any portion thereof, within the limits of The City of Seattle.

D. "Eligible fund" means a source fund for construction projects from which art is not precluded as an object of expenditure.

E. "Municipal Arts Plan" means the plan required by Section 20.32.040 A.

F. "Administrative costs" means all costs incurred in connection with the selection, acquisition, installation and exhibition of, and publicity about, City-owned works of art.
(Ord. 121006 § 11, 2002: Ord. 117403 § 1, 1994: Ord. 105389 § 1, 1976: Ord. 102210 § 2, 1973.)

20.32.030 Funds for works of art.

All requests for appropriations for construction projects from eligible funds shall include an amount equal to one (1) percent of the estimated cost of such project for works of art and shall be accompanied by a request from the Office of Arts and Cultural Affairs for authorization to expend such funds after the same have been deposited in the Municipal Arts Fund. When the City Council approves any such request, including the one (1) percent for works of art, the appropriation for such construction project shall be made and the same shall include an appropriation of funds for works of art, at the rate of one (1) percent of project cost to be deposited into the appropriate account of the Municipal Arts Fund. Money collected in the Municipal Arts Fund shall be expended by the Office of Arts and Cultural Affairs for projects as prescribed by the Municipal Arts Plan, and any unexpended funds shall be carried over automatically for a period of three (3) years, and upon request of the Office of Arts and Cultural Affairs, carried over for an additional two (2) years. Any funds carried over for three (3) years, or upon special request for five (5) years, and still unexpended at the expiration of such period shall be transferred to the General Fund for general art purposes only; provided, that funds derived from revenue or general obligation bond issues or from utility revenues or other special purpose or dedicated funds

shall revert to the funds from which appropriated at the expiration of said three (3) or five (5) year period.
(Ord. 121006 § 12, 2002: Ord. 105389 § 2, 1976: Ord. 102210 § 3, 1973.)

20.32.040 Office of Arts and Cultural Affairs--Authority.

To carry out its responsibilities under this chapter, the Office of Arts and Cultural Affairs shall:

A. Prepare, adopt and amend with the Mayor's approval a plan and guidelines to carry out the City's art program, which shall include, but not be limited to a method or methods for the selection of artists or works of art and for placement of works of art;

B. Authorize purchase of works of art or commission the design, execution and/or placement of works of art and provide payment therefor from the Municipal Arts Fund. The Office of Arts and Cultural Affairs shall advise the department responsible for a particular construction project of the Office's decision, in consultation with the Seattle Arts Commission, regarding the design, execution and/or placement of a work of art, funds for which were provided by the appropriation for such construction project;

C. Require that any proposed work of art requiring extraordinary operation or maintenance expenses shall receive prior approval of the department head responsible for such operation or maintenance;

D. Promulgate rules and regulations consistent with this chapter to facilitate the implementation of its responsibilities under this chapter.
(Ord. 121006 § 13, 2002: Ord. 105389 § 3, 1976: Ord. 102210 § 4, 1973.)

20.32.050 Municipal Arts Fund.

There is established in the City Treasury a special fund designated "Municipal Arts Fund" into which shall be deposited funds appropriated as contemplated by Section 20.32.030, together with such other funds as the City Council shall appropriate for works of art, and from which expenditures may be made for the acquisition and exhibition of works of art consistent with the plan specified in Section 20.32.040A, and for Office of Arts and Cultural Affairs staff costs and administrative costs (as defined in SMC Section 20.32.020 F) that are associated with developing and implementing the Municipal Arts Plan, but not the cost of maintaining City-owned art work, which maintenance cost may be paid from the Cumulative Reserve Subfund or such other source(s) as may be specified by ordinance. Separate accounts shall be established within the Municipal Arts Fund to segregate receipts by source or, when so directed by the City Council, for specific works of art. Disbursements from such fund shall be made in connection with projects approved by the Seattle Arts Commission on vouchers approved by the Director of the Office of Arts and Cultural Affairs.
(Ord. 121006 § 14, 2002: Ord. 117403 § 2, 1994: Ord. 116368 § 242, 1992: Ord. 105389 § 4, 1976: Ord. 102210 § 5, 1973.)

Chapter 20.36

GIFTS OF ART--ACCEPTANCE BY MAYOR

Sections:

20.36.010 Acceptance by Mayor.

In accordance with the following procedures, the Mayor is authorized for and on behalf of the City to accept gifts of works of art for display in or on property owned or occupied by the City:

A. Before accepting a gift of work of art pursuant to the authority of this chapter, the Mayor shall consult with the head of the City department or departments responsible for the premises where such work of art will be displayed and shall also obtain from the Seattle Arts Commission, or a duly designated committee thereof, its recommendation as to whether such gift of work of art should be accepted.

B. No gift shall be accepted pursuant to the authority of this chapter which will require substantial expenditures for protection from theft or damage, maintenance or operation.

C. Any gift accepted pursuant to the provisions of this chapter must be offered to the City unconditionally, except that the donor may impose any or all of the following conditions:

1. Specify the location where the work of art shall be displayed and/or specify reasonable conditions for the display of such work of art;

2. Specify reasonable conditions as to the care and protection of the work of art, provided such conditions do not require the expenditure of substantial funds in order to comply therewith; and

3. Specify that a sign or placard be placed near the work of art identifying the donor and/or the person or persons or event which such work of art commemorates or in whose memory or memories such work was donated.

D. The Mayor shall manifest his acceptance of any such gift of work of art on behalf of the City by issuing a certificate of acceptance to the donor and by filing a copy of such certificate with the City Clerk. The provisions of this chapter shall not apply to the acceptance of gifts of works of art which are made to the Seattle Public Library and which are accepted by the Board of Library Trustees pursuant to RCW 27.12.210. (Ord. 116368 § 243, 1992: Ord. 107578 § 1, 1978.)

Chapter 20.38

APPRENTICESHIP PROGRAM

Sections:

20.38.005 Apprentice utilization.

On public works contracts with an estimated cost of One Million Dollars ($1,000,000) or more, the Director is authorized to require that up to fifteen (15) percent of the contract labor hours be performed by apprentices enrolled in training programs approved or recognized by the Washington State Apprenticeship and

Training Council (SAC). Furthermore, it is the City's intent that, on public works projects with an apprentice utilization requirement, there shall be a goal that twenty-one (21) percent of the apprentice labor hours be performed by minorities and twenty (20) percent of the apprentice labor hours be performed by women.
(Ord. 120794 § 228, 2002: Ord. 120181 § 119, 2000: Ord. 118834 § 1(part), 1997.)

20.38.010 Definitions.

When used in this chapter:

A. "Apprentice labor hours" means the total hours required to be worked by apprentices on the public works project.

B. "Director" means the Director of Executive Administration or his or her designee.

C. "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" shall include hours performed by workers employed by the contractor and all subcontractors working on the project. "Labor hours" shall exclude hours worked by foremen, superintendents, owners and workers who are not subject to prevailing wage requirements.
(Ord. 120181 § 120, 2000; Ord. 118834 § 1(part), 1997.)

20.38.020 Powers.

The Department of Executive Administration shall be responsible for the implementation and administration of this chapter and is authorized to develop and adopt rules consistent with the requirements of this chapter. The Department of Executive Administration shall establish contract specification language to implement the apprenticeship requirement, which may change from time to time. The Department of Executive Administration shall develop and implement a system for monitoring the actual use of apprentices on public works projects.
(Ord. 120794 § 230, 2002: Ord. 120181 § 121, 2000: Ord. 118834 § 1(part), 1997.)

20.38.030 Waivers or reductions of goals.

The Director is authorized to waive or reduce the apprenticeship participation goals on contracts.
(Ord. 120794 § 231, 2002: Ord. 120181 § 122, 2000: Ord. 118834 § 1(part), 1997.)

Chapter 20.40[1]

SMALL PUBLIC WORKS

Sections:

1. Editor's Note: Ordinance 118833 § 1, which created Section 20.40.010 suggested numbering this section as Section 20.38.010. Chapter 20.38, however, was already in use, so this section was renumbered as Chapter 20.40, Section 20.40.010.

20.40.010 Small public works--Department authority to execute contracts.

Notwithstanding the provisions of Chapters 3.04 and 20.60, the Director of Executive Administration may authorize other departments to administer and execute public works contracts that are less than or equal to Five Thousand Dollars ($5,000). This amount shall be adjusted pursuant to and be equal to the dollar limit for direct vouchers resulting from the application of SMC 20.60.140 B to direct vouchers. Such departments shall comply with all state laws and City ordinances governing public works contracts.
(Ord. 121720 § 1, 2005; Ord. 121719 § 1, 2005; Ord. 120794 § 232, 2002: Ord. 120181 § 123, 2000: Ord. 118833 § 1, 1997.)

20.40.020 Small Works Roster.

The Director of Executive Administration shall establish and administer a Small Works Roster for use on City of Seattle public works projects that meet the requirements of Revised Code of Washington (RCW) 39.04.155 and 35.22.620, as now or hereafter amended. The Director of Executive Administration shall adopt rules and regulations regarding procedures for the use of the Small Works Roster. The Director of Executive Administration may also execute interagency agreements or other contractual documents as required to establish such a Small Works Roster.
(Ord. 120794 § 233, 2002: Ord. 119953 § 2, 2000.)

Subtitle III

Contracting

Chapter 20.42

EQUALITY IN CONTRACTING

Sections:

20.42.005 Short title.

This Chapter may be referred to as the "Equality in Contracting Ordinance."
(Ord. 121717 § 1, 2005.)

20.42.010 Purpose.

The City finds that minority and women businesses are significantly under-represented and have been underutilized on City Contracts. Additionally, the City does not want to enter into agreements with businesses that discriminate in employment and the provision of services. The purpose and intent of this chapter are to provide the maximum practicable opportunity for increased participation by minority and women owned and controlled businesses, as long as such businesses are underrepresented, and to ensure that City contracting

practices do not support discrimination in employment and services when the City procures public works, goods, and services from the private sector.
(Ord. 121717 § 1, 2005.)

20.42.020 Definitions.

For the purposes of this chapter:

A. "Affirmative Efforts" means documented reasonable attempts in good faith to contact and employ women and minorities and to contact and contract with Women and Minority Businesses.

B. "Availability" or "Available" as used in this chapter means a business that is: interested in and Capable of performing the item of work in question; and able to perform the work within the time frame required by the bid specifications or request for proposals or qualifications.

C. "Capability" or "Capable" as used in this section means that a business appears able to perform a Commercially useful function on the item of work in question.

D. "Commercially useful function" means the performance of real and actual services in the discharge of any contractual endeavor.

E. "Contract" means an agreement for: public works; consulting as set forth in SMC Chapter 20.50; or supplies, material, equipment or services as set forth in SMC 20.60.100 et seq.

F. "Contract awarding authority" means the City officer, department, commission, employee, or board authorized to enter into or to administer Contracts on behalf of the City.

G. "Contractor" means a business that has a Contract with the City.

H. "Department" means the Department of Executive Administration.

I. "Director" means the Director of the Department of Executive Administration.

J. "Women or Minority Business" means a business that is at least fifty-one (51) percent owned by women and/or minority (including, but not limited to, African Americans, Native Americans, Asians, and Hispanics) group members.
(Ord. 121722 § 16, 2005; Ord. 121720 § 1, 2005; Ord. 121717 § 1, 2005.)

20.42.030 Powers and duties of the Director.

The Director shall have the power and duty to:

A. Prepare and require that City contract awarding authorities use Contract specifications pertaining to:

1. Equal opportunity and non-discrimination;

2. Affirmative efforts to assure equality of employment and contracting opportunity, that may include, but are not limited to, employment goals for women and minorities and goals for subcontracting to Women and Minority Businesses. Any goals established under this chapter shall be reasonably achievable, however, no utilization requirements shall be a condition of contracting, except as may be allowed by RCW 49.60.400; and

3. Requiring non-discrimination by the Contractor in the provision of goods and services;

B. Prepare and require that City Contract awarding authorities utilize particular Contract specifications requiring affirmative efforts to assure equality of contracting opportunity as required by RCW 35.22.650;

C. Advise Contract awarding authorities as to, and take action with regard to, the compliance records of prospective contractors; and report findings regarding discriminatory practices to appropriate authorities as established by pertinent ordinances, state or federal laws, or regulations affecting prospective contracts;

D. Provide information and technical assistance to Women and Minority Businesses to increase their capacity to effectively compete for the award of government contracts and subcontracts;

E. Assist City and community agencies to increase employment of women and minorities and increase Women and Minority Business participation on City Contracts;

F. Develop educational and outreach programs and otherwise assist Women and Minority Businesses to compete effectively for City Contracts;

G. Request and review relevant records, information, and documents maintained by Contract awarding authorities, Contract administering authorities, Contractors and subcontractors for the purpose of determining compliance with the requirements of this section;

H. Enter into cooperative agreements with other public agencies to carry out the purposes of this chapter;

I. Adopt rules and procedures in accordance with the Administrative Code of The City of Seattle (SMC Chapter 3.02) not inconsistent with this Chapter, including establishing practices and procedures that may be required for implementing 49 CFR Part 23, Subpart D2; and

J. Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.
(Ord. 121717 § 1, 2005.)

20.42.040 Limitations on City Contracts and lease and service agreements.

A. The City shall not enter into Contracts with contractors that do not agree to use Affirmative Efforts as required under this chapter or violate any provisions of this chapter.

B. The City shall not enter into lease agreements or service agreements that are not Contracts as defined in SMC 20.42.020 with persons that discriminate in employment, in the provision of public services, or in leasing practices as prohibited by law. The Director may specify appropriate language for lease and service agreements to implement the requirements of this section.

C. The Director may waive the requirements of Subsections A and B of this section when the Director determines that an emergency exists, such requirements would have a significant adverse effect on the City's interests, or there is only one (1) contractor that can satisfy the requirements of the Contract, lease agreement or service agreement.
(Ord. 121717 § 1, 2005.)

20.42.050 Affirmative efforts in employment and subcontracting, non-discrimination in services required.

Contractors entering into agreements under this chapter shall actively solicit the employment of women and minority group members. Contractors shall actively solicit bids for subcontracts to qualified, Available, and Capable Women and Minority Businesses to perform Commercially useful functions. Contractors shall consider the grant of subcontracts to women and minority bidders on the basis of substantially equal proposals in the light most favorable to Women and Minority Businesses, as may be required by RCW 35.22.650. At the request of the Department, Contractors shall furnish evidence of the Contractor's compliance with these requirements of women and minority employment and solicitation and will submit evidence of compliance with this section as part of any bid. Contractors shall provide records necessary to document: 1) Affirmative Efforts to employ women and minority group members; 2) Affirmative Efforts to subcontract with Women and Minority Businesses on City Contracts; and 3) the Contractor's non-discrimination in the provision of goods and services. Compliance with all requirements under this chapter shall be a condition of eligibility for contracting with the City.

In applying the provisions of this section to Contracts funded in whole or in part with federal funds and subject to 49 CFR Part 23, Subpart D, references to Women and Minority Businesses shall also include federally recognized disadvantaged business enterprises. In the event of a conflict between the provisions of this chapter, or the rules implementing this chapter, and the requirements of 49 CFR Part 23, Subpart D, or any other superseding applicable federal statute or regulation, the provisions of the federal statute or regulation shall control.
(Ord. 121717 § 1, 2005.)

20.42.060 Affirmative efforts by City Contract awarding authorities required.

Each Contract awarding authority shall adopt a plan, developed in consultation with the Director, to afford Women and Minority Businesses the maximum practicable opportunity to directly and meaningfully participate on City Contracts. The plan shall include specific measures the Contract awarding authority will undertake to increase the participation of Women and Minority Businesses. Each Contract awarding authority shall make efforts to comply with any goals established in the plan for that Contract awarding authority under these provisions for public works, consultant services and procuring goods or services. The Contract awarding authority may also establish aspirational goals for the participation of Women and Minority Businesses in a particular City Contract on a case-by-case basis.
(Ord. 121717 § 1, 2005.)

20.42.070 Assistance to contractors.

The Director may offer the services and facilities of the Department to assist contractors desiring to bid on, or having been awarded a City Contract, to comply with the equal opportunity, non-discrimination, and affirmative efforts provisions for such Contract, and may offer information as to organizations and agencies available to assist such contractor in recruiting, tutoring, training, or otherwise preparing potential employees and subcontractors.
(Ord. 121717 § 1, 2005.)

20.42.080 Discrimination in contracting practices and violations of this chapter prohibited.

A. No Contractor on a City Contract shall violate the provisions of this chapter, SMC Ch. 14.04, SMC Ch. 14.10, SMC Ch. 20.45, or other local, state or federal non-discrimination laws.

B. Contractors in violation of this chapter shall be subject to debarment from City contracting activities in accordance with SMC Ch. 20.70.

C. No Contract shall be awarded to any person or business that is debarred or otherwise disqualified from doing business with the City under the provisions of this chapter, as now or hereafter amended. No Contractor shall subcontract to, or purchase supplies, materials, or services from, any person or business that is debarred or otherwise disqualified from doing business with the City under the provisions of this chapter as now or hereafter amended.

D. Action under these provisions shall be in addition to other remedies that may be available to the City under the Contract, SMC Ch. 20.45, and other laws or provisions prohibiting discrimination and requiring affirmative efforts.
(Ord. 121717 § 1, 2005.)

Chapter 20.45

CITY CONTRACTS--NONDISCRIMINATION IN BENEFITS

Sections:

20.45.010 Definitions.

For the purposes of this chapter:

A. "Contract" means a contract for public works, consulting, or supplies, material, equipment or services as set forth in SMC Section 3.38.800 et seq., estimated to cost Thirty-three Thousand Dollars ($33,000) or more in 1999, consistent with the competitive threshold requirements of, and as adjusted pursuant to, Seattle Municipal Code Sections 3.38.940 and 3.114.140.

B. "Contract awarding authority" means the City officer, department, commission, employee, or board authorized to enter into or to administer contracts on behalf of the City.

C. "Department" means the Department of Executive Administration.

D. "Director" means the Director of Executive Administration.

E. "Domestic partner" means any person who is registered with his/her employer as a domestic partner, or, in the absence of such employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration. Any internal employer registry of domestic partnership must comply with criteria for domestic partnerships specified by rule by the Department.

F. "Employee benefits" means the provision of bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.
(Ord. 120794 § 240, 2002; Ord. 120181 § 130, 2000; Ord. 119748 § 1(part), 1999.)

20.45.020 Discrimination in the provision of benefits prohibited.

A. No contractor on a City contract shall discriminate in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs.

2. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.

B. Other Options for Compliance Allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:

1. Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;

2. Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits; or

3. Provide benefits neither to employees' spouses nor to employees' domestic partners.

C. Requirements Inapplicable Under Certain Conditions. The Director may waive the requirements of this chapter where:

1. Award of a contract or amendment is necessary to respond to an emergency;

2. The contractor is a sole source;

3. No compliant contractors are capable of providing goods or services that respond to the City's requirements;

4. The contractor is a public entity;

5. The requirements are inconsistent with a grant, subvention or agreement with a public agency;

6. The City is purchasing through a cooperative or joint purchasing agreement.

D. Requests for waivers of the terms of this chapter are to be made to the Department by the contract awarding authority in a manner prescribed by the Department. Decisions by the Department to issue or deny waivers are final.

E. The Director may reject an entity's bid or proposal, or terminate a contract, if the Director determines that the entity was set up, or is being used, for the purpose of evading the intent of this chapter.

F. No contract awarding authority shall execute a contract with a contractor unless such contractor has agreed that the contractor will not discriminate in the provision of employee benefits as provided for in this chapter.

G. All contracts awarded by the City shall contain provisions developed by the Department prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by SMC Section 20.45.040, except as exempted by this chapter or rule.
(Ord. 119748 § 1(part), 1999.)

20.45.030 Limitations.

The requirements of this chapter only shall apply to those portions of a contractor's operations that occur (A) within the City; (B) on real property outside of the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and (C) elsewhere in the United States where work related to a City contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor.
(Ord. 119748 § 1(part), 1999.)

20.45.040 Powers and duties of the Director.

The Director of Executive Administration shall have the power to:

A. Adopt rules and regulations, in accordance with this chapter and the Administrative Code of The City of Seattle (SMC Chapter 3.02), establishing standards and procedures for effectively carrying out this chapter;

B. Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but not limited to:

1. Disqualification of the contractor from bidding on or being awarded a City contract for a period of up to five (5) years, and

2. Contractual remedies, including, but not limited to, liquidated damages and termination of the contract;

C. Examine contractor's benefit programs covered by this chapter;

D. Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

E. Allow for remedial action after a finding of noncompliance, as specified by rule;

F. Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.
(Ord. 120794 § 241, 2002: Ord. 120181 § 131, 2000; Ord. 119748 § 1(part), 1999.)

20.45.050 Effective date.

The provisions of this chapter shall apply to any contract awarded on or after September 30, 2000. (Ord. 119748 § 1(part), 1999.)

Chapter 20.47

CONTRACTING--PROFESSIONAL SPORTS ORGANIZATIONS

Sections:

20.47.010 Consideration.

Consideration for the value of goods, services, real property or facilities provided or leased by the City of Seattle to for-profit professional sports organizations or to any other public entity, or non-profit organization,

which may in turn provide such goods, services, real property or facilities to a for-profit professional sports organization, must be at or above the fair value of the goods, services, real property or facility being provided or leased.
(Ord. 122357, 2006.)

20.47.020 Fair Value--Definition.

Fair value is defined herein as no less than the rate of return on a U.S. Treasury Bond of thirty years duration at the time of inception of any such provision of goods or services, real property or lease; and further, such return shall be computed as the net cash on cash return, after interest and any financing costs, on the depreciated value of the cash investment of the City of Seattle in such goods, services, real property or facility, and shall exclude all intangible, indirect, non-cash items such as goodwill, cultural or general economic benefit to the City, and shall also exclude unsecured future cash revenues.
(Ord. 122357, 2006.)

20.47.030 Non-Profit Organizations.

Nothing in this Chapter 20.47 shall prevent the leasing or providing of goods, services, real property or facilities to not-for-profit organizations, other than as limited by Section 20.47.0 10 above, for the direct benefit of the health, welfare, or safety of the people of the City of Seattle.
(Ord. 122357, 2006.)

20.47.040 Washington State Grant of Authority.

Notwithstanding any of the language contained in Sections 20.47.010 through 20.47.030 of this Chapter 20.47, nothing in this Chapter shall be interpreted or applied so as to limit or restrict any Washington State legislative or constitutional grant of power to the legislative authority or other officer of the City of Seattle, and the reach of this Chapter 20.47 is expressly circumscribed and limited by any such legislative or constitutional grant of power.
(Ord. 122357, 2006.)

20.47.050 Violations--Injunctive Relief.

Any resident of the City of Seattle shall, by virtue of his/her status as a taxpayer in the City, have legal standing to challenge, in King County Superior Court, any act, lease, ordinance, or resolution taken, entered into, or enacted by the City of Seattle which allegedly violates this Chapter 20.47, within ninety (90) days of such act, lease, ordinance or resolution; such a resident shall be entitled to injunctive relief preventing said act, lease, ordinance, or resolution from becoming effective, without the necessity of any bond being posted, so long as the elements necessary to obtain injunctive relief pursuant to RCW 7.40.020 are established to the satisfaction of the Court.
(Ord. 122357, 2006.)

20.47.060 Severability.

If any provision of this Chapter 20.47 or its application to any person or circumstance is held invalid, the remainder of this Chapter or the application of the provision to other persons or circumstances shall not be

affected.
(Ord. 122357, 2006.)

Chapter 20.48

PUBLIC WORKS CONTRACTS--FINANCIAL REQUIREMENTS

Sections:

Statutory Reference: For statutory provisions on contractor's bonds, see RCW Ch. 39.08; for provisions concerning prevailing wages on public works, see RCW Ch. 39.12.

20.48.010 Contractor's bond required.

Before any contract for a public work or improvement shall be valid or binding against the City, the contractor shall make, execute and deliver to the City a bond(s) that meets the requirements of RCW Ch. 39.08 as now or hereafter amended. Such bond shall be in an amount equal to not less than twenty-five (25) percent, nor more than one hundred (100) percent of the full contract price agreed to be paid for such public work or improvement. Contract Awarding Authorities shall determine whether to require bond or retainage for limited public works projects awarded under the provisions of RCW 39.04.155(3), as now or hereafter amended. If required, a bond shall name the City as obligee, and shall be filed with the City Clerk. The amount of the bond to be required of any contractor shall be (1) stated in the call for bids for the doing of the public work or improvement; or (2) if there is no call for bids, as required by the department awarding the contract.
(Ord. 120782 § 1, 2002: Ord. 118833 § 5, 1997: Ord. 116368 § 248, 1992: Ord. 35902 § 1, 1916.)

20.48.030 Funds to be available before entering into contract.

Before the construction of any public work or improvement, or any part thereof, either by contract or by day labor, is authorized or begun under the direction and general supervision of the Director of Executive Administration, said Director shall obtain from the head of the City department for which such work is to be undertaken, such department head's certification that sufficient funds have been appropriated to cover the full cost and expense of completing the desired public work or improvement (which appropriations shall be identified, by ordinance number and, where appropriate, by Capital Improvement Project number, in such certification). No contract shall be entered into, nor shall the construction of such work or improvement, or any part thereof, be undertaken by said Director, unless there is a balance in the appropriation sufficient to cover such cost and expense. For contracts executed pursuant to Chapter 39.10 RCW, the Director or department head is authorized to enter into contracts without such certification, provided that no phase of any public work may be started unless sufficient funds have been appropriated to cover the full cost and expense of completing that phase.
(Ord. 120794 § 244, 2002: Ord. 120181 § 136, 2000: Ord. 118397 § 117, 1996: Ord. 118087 § 1, 1996; Ord. 116007 § 6, 1991: Ord. 46545 § 1, 1924.)

20.48.040 Filing of statement of contract amount.

Whenever the Director of Executive Administration shall award any contract for any public work or improvement, or any part thereof, or shall have determined to make such public work or improvement, or any part thereof, by day labor under such official's management, the Director shall forthwith file a statement of the amount of such contract or the estimated cost of such work, and shall enter such amount upon the books in his or her office as a preliminary charge against the appropriation made to cover the cost and expense of such work or improvement.
(Ord. 120794 § 245, 2002: Ord. 120181 § 137, 2000: Ord. 118397 § 118, 1996: Ord. 116368 § 249, 1992: Ord. 116007 § 7, 1991: Ord. 46545 § 2, 1924.)

20.48.050 Not applicable to certain local improvements.

The provisions of Sections 20.48.030 through 20.48.060 shall not apply to local improvements, the funds for the making of which are directly or indirectly to be derived in whole or in part from assessments upon the property benefited thereby.
(Ord. 46545 § 3, 1924.)

20.48.060 Contracts in violation--Voidable.

Any contract entered into, or any obligation against the City incurred by the Director of Executive Administration in violation of the provisions of Sections 20.48.030, 20.48.040 or 20.48.050 shall be voidable at the option of the City.
(Ord. 120794 § 246, 2002: Ord. 120181 § 138, 2000: Ord. 118397 § 119, 1996: Ord. 116007 § 8, 1991: Ord. 46545 § 4, 1924.)

20.48.080 Auditing authority.

The City Auditor is authorized to audit public works contracts to determine whether required procedures were followed; the compensation or other consideration was properly paid; and the improvement or services, which were contracted for, were received in a timely manner.
(Ord. 116368 § 250, 1992: Ord. 115601 § 2, 1991.)

Chapter 20.49

BOOST PROGRAM

Sections:

20.49.010 Findings.

The City Council finds the following:

A. The success of small economically disadvantaged businesses is important to the region's overall economy, including the development of job opportunities and social mobility.

B. Economic justice is served by enhancing opportunities for small economically disadvantaged business owners to become more skilled competitors.

C. Through its contracting activities, the City is in a position to create important economic incentives to use small economically disadvantaged businesses.

D. It is in the City's economic interest to provide incentives to encourage small economically disadvantaged businesses to successfully do business with, and in, the City.
(Ord. 120664 § 1, 2001; Ord. 120021 § 2, 2000.)

20.49.020 Boost for small economically disadvantaged businesses.

The Director of Executive Administration shall implement a "Boost" Program under which the City and its contractors have an incentive or requirement to make use of small economically disadvantaged businesses as prime contractors, subcontractors and suppliers on City contracts as determined by the Department.
(Ord. 120794 § 247, 2002: Ord. 120664 § 1, 2001; Ord. 119602 § 2, 1999.)

20.49.030 Scope.

The Boost Program shall apply to City public works, consulting, and procurement contracts.
(Ord. 119602 § 3, 1999.)

20.49.040 Definitions.

"Director" means the Director of Executive Administration.

"Department" means the Department of Executive Administration.

"Small economically disadvantaged business" means that a business and the person or persons who own and control it are in a financial condition which puts the business at a substantial disadvantage in attempting to compete for public contracts. In assessing these financial conditions, the Director shall substantially adopt the approach used by the federal Small Business Administration ("SBA"), provided that the SBA dollar ceilings for various standard business classifications shall be adjusted by the Director to account for local market conditions as appropriate.
(Ord. 120794 § 248, 2002: Ord. 120664 § 3, 2001: Ord. 120021 § 3, 2000.)

20.49.050 Criteria for participation.

To be certified for the Boost Program, a business must be a small economically disadvantaged business serving a commercially useful function, as determined by the Director.

(Ord. 120664 § 4, 2001: Ord. 120021 § 4, 2000.)

20.49.060 Certification process.

The Department is authorized to develop a process for certifying businesses for participation in the Boost Program. The Department may arrange, or contract for, a coordinated certification agency in cooperation with other agencies that may adopt compatible programs, as appropriate.
(Ord. 120664 § 5, 2001: Ord. 119602 § 6, 1999.)

20.49.070 Limitation of certification.

In order to provide significant opportunities and incentives for Boost businesses to prove themselves competitive within the market, the certification of such businesses shall be limited to five (5) years or a specified contract and dollar volume of participation.
(Ord. 119602 § 7, 1999.)

20.49.080 Methods of providing incentive.

The Boost Program shall use one or more methods to create an incentive to promote the use of Boost businesses. This incentive shall be produced either through a bonus system in which the increased participation of Boost businesses is a factor in the award of contracts or a factor in compensation to the contractor, or through a set-aside system under which contractors are required to achieve a specified level of participation by Boost businesses. Where the bonus system is used, the contract shall state the maximum incentive available for Boost participation and the possible methods for making use of the incentive. Where a set-aside system is used, the contract shall state a required minimum utilization. The program may provide additional incentives for Boost businesses meeting two or more of the additional criteria for certification.
(Ord. 120021 § 5, 2000.)

20.49.090 Violations and sanctions.

A person who violates any provision of this chapter or the rules promulgated under its authority or who fails to comply with representations or commitments made to receive a benefit or qualify for an incentive under the Boost program shall be subject to sanctions including but not limited to: (a) liquidated damages, (b) withholding of funds, (c) a civil fine or penalty, (d) disqualification from eligibility for bidding on or entering into or participating, as a subcontractor or in any other manner, in a contract with the City for a period not to exceed five (5) years. The Director shall set forth the sanctions and/or liquidated damages to be imposed and the reasons therefor in a written order and shall promptly furnish a copy of the order to the contract awarding authority or contract administering authority, and shall mail a copy by certified mail, return receipt requested, to the person being sanctioned.
(Ord. 119602 § 9, 1999.)

20.49.100 Appeals.

Any person against whom sanctions have been imposed by the Director may appeal within fifteen (15) days from the date the Director's decision was mailed to the person being sanctioned, by filing a notice of appeal with the office of the Hearing examiner within forty-five (45) days after receiving the notice of appeal,

the Hearing Examiner. Within forty-five (45) days after receiving the notice of appeal, the Hearing Examiner shall convene the appeal hearing. Written notice of the hearing date shall be given to the appellant and to the department at least thirty (30) days prior to the hearing. Within thirty (30) days after conclusion of the appeal hearing, the Hearing Examiner presiding at the hearing shall prepare a written decision and order. The final decision shall be filed as a public record with the City Clerk, and copies thereof mailed to each party of record and to the Director.
(Ord. 119602 § 10, 1999.)

Chapter 20.50

PROCUREMENT OF CONSULTANT SERVICES

Sections:

20.50.010 Definitions.

The words defined in this section shall have the meanings set forth below whenever they appear in this chapter, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular section or provision:

A. "Consultant" means any Person that by experience, training and education of the principals, officers or employees thereof has established a reputation or ability to perform specialized activities on a discrete, nonrecurring basis over a limited and pre-established term, as an independent contractor, delivering or providing for a monetary or other consideration, advice, recommendations(s), report(s), analysis(es), evaluation(s), audit(s), survey(s), or other products of cognitive processes or expert or professional services including but not limited to services from any attorney, architect, accountant, public relations advisor, dentist, physician, surgeon, psychiatrist, psychologist, veterinarian, engineer, surveyor, appraiser, planning consultant, investment counselor, and actuary; provided, that the following shall not be deemed a "Consultant":

1. Any provider of services appropriate for a service contract pursuant to SMC Ch. 20.60, Subchapter II, as amended;

2. Any expert witness retained by the Law Department in connection with anticipated or actual litigation, or by the City Council in connection with any hearing on the nomination or appointment of any individual as a municipal officer; and

3. Any person retained for legal advice when, in the determination of the Law Department, a public

solicitation process would likely adversely affect the City's legal interests or the attorney-client relationship.

B. "Contract" means and includes all types of agreements between or among the City and one (1) or more Consultants, regardless of the form of the agreement, for the procurement of Consultant services, and amendments thereto.

C. "Department" means any City department, office, board, commission, council, agency or other administrative or operating part of the City, and any division or part or combination thereof.

D. "Director" means the Director of Executive Administration.

E. "Estimated to cost" means the anticipated charges for all activities that a Consultant agrees to perform pursuant to Contract and the anticipated charges for all additional specialized activities to be performed by the Consultant under all renewals, extensions, and amendments of the Contract and under subsequent stages of the same project.

F. "Person" means individuals, businesses, associations, sole proprietors, partnerships, corporations, or limited liability companies.
(Ord. 121722 § 1, 2005; Ord. 120794 § 33, 2002; Ord. 108762 § 1, 1979.)

20.50.030 Advertising of need for Consultant services.

A. This section shall apply to any proposed Contract for Consultant services estimated to cost Twenty Thousand Dollars ($20,000) or more, other than Contracts to Consultants on a Consultant roster.

B. Departments shall advertise for Consultant services in the City's official newspaper for at least two (2) days (which need not be consecutive). Such advertisements shall include in general terms at least a description of the services sought, the name of the concerned Department, the name and telephone number of a representative of the Department from whom additional information may be obtained, and an indication that the selection of the Consultant is subject to applicable laws and ordinances regarding equal employment opportunity.

C. Solicitations for placement on a Consultant roster shall be advertised in the same manner and with as much of the information described in subsection B of this section as practical. The Director shall determine the frequency of the solicitation advertisements for placement on a consultant roster.
(Ord. 121722 § 2, 2005; Ord. 120794 § 34, 2002; Ord. 120181 § 62, 2000; Ord. 119651 § 1, 1999: Ord. 115388 § 2, 1990; Ord. 112334 § 4, 1985: Ord. 108762 § 3, 1979.)

20.50.040 Consultant selection.

A. This section applies to Contracts estimated to cost Twenty Thousand Dollars ($20,000) or more.

B. The selection of Consultants shall be based upon evaluation criteria relevant to the services to be provided. Departments shall select Consultants based on factors including, but not limited to, their competence and qualifications for the type of services to be provided, the consideration the City will pay for such services

(except for services under Chapter 39.80 RCW), and the affirmative action/equal opportunity record of the Consultant. Departments will provide these criteria and the method by which they will evaluate responses to solicitations.

C. Department heads shall appoint and use a Consultant evaluation committee that should include, where practical, representation by women and minorities. The Consultant evaluation committee shall review the materials submitted by Consultants in response to a solicitation and shall report in writing its recommendations including, where possible, the ranking of the top five (5) Consultants evaluated. The report shall describe any measurable differences among Consultants evaluated, together with an explanation of the evaluation processes used. Thereafter, such evaluation report shall be filed with the Contract.

D. The Department head shall consider the report and recommendations of the committee in making a final selection. If the Department head chooses not to accept the recommendation of the committee, he or she shall file a written explanation to be retained with the Department's records related to the Contract.

E. Department heads shall make a good-faith effort to rotate the award of Consultant Contracts among Consultants evaluated as being equally qualified and capable of performing the desired services.

F. Departments shall not retain the same Consultant to perform accounting or auditing services and to provide management consulting services during the term of a current Contract or within one (1) year after completion of a Contract for either type of service.

G. Departments shall not enter into a Contract with any Consultant for performance of services on a retainer basis (whether for a term of years, or from year-to-year, or on another successive arrangement) for more than five (5) consecutive years. This restriction shall not apply to:

1. A contract for services in connection with a particular project or activity although completion of the assignment may extend for more than five (5) years;

2. A retainer agreement used to establish eligibility for placement on a roster from which Consultants are selected from time to time for particular assignments; or

3. An agreement implementing a deferred compensation plan for City employees contemplated by 26 USC § 457.

(Ord. 121722 § 3, 2005; Ord. 120794 § 35, 2002; Ord. 120181 § 63, 2000; Ord. 119651 § 2, 1999: Ord. 118397 § 49, 1996: Ord. 116000 § 2, 1991: Ord. 112334 § 5, 1985; Ord. 108762 § 4, 1979.)

20.50.050 Notification of selection or nonselection.

Departments that receive a proposal from a Consultant to provide services will notify each Consultant from which it received a proposal, in writing, as to whether such Consultant was selected to provide the desired services, or qualified for placement on a certified roster.

(Ord. 121722 § 5, 2005; Ord. 116000 § 5, 1991: Ord. 112334 § 8, 1985; Ord. 108762 § 7, 1980.)

20.50.060 Required form, terms and conditions of agreements with Consultants.

Every Contract between or among the City and a Consultant shall be in writing and signed by at least one (1) authorized representative of each contracting party. Each such Contract shall include a specific and detailed description of the scope of work or services to be provided by the Consultant(s) and the products of any sort to be delivered to the City; the maximum amount of compensation to be paid and any other consideration to be provided to the parties to the Contract, together with a description of the timing and method(s) of such payment and any retainage to be held; the dates the Contract is effective and is to expire; all equal employment opportunity, women's and minority business enterprise, and affirmative action provisions required by law, ordinance, rule or regulation to be included in such Contract; the authority of the City to audit the Consultant's books and records with respect to the services to be provided, costs thereof, and compensation paid therefor; and any appropriate or required funding or other provision. All such Contracts providing compensation of a value of Twenty Thousand Dollars ($20,000) or more shall be subject to review by the City Attorney, for, among other things, form; the specificity of descriptions of work to be performed for and products or results to be delivered to the City; and liability, insurance, indemnification, and bonding provisions.
(Ord. 121722 § 6, 2005; Ord. 116000 § 6, 1991: Ord. 108762 § 8, 1980.)

20.50.070 Filing of Consultant contracts.

Departments shall file one (1) complete copy of each Consultant Contract with original signatures with the City Clerk or such official's functional successor following execution by all parties. A copy of such Contract shall be provided by the concerned Department to the Director upon request.
(Ord. 121722 § 7, 2005; Ord. 120794 § 38, 2002: Ord. 120181 § 66, 2000: Ord. 118397 § 52, 1996: Ord. 116000 § 7, 1991: Ord. 108762 § 9, 1980.)

20.50.080 Performance review and evaluation reports.

Departments shall prepare a written Consultant evaluation report in accordance with any procedures or directives made by the Director.
(Ord. 121722 § 8, 2005; Ord. 120794 § 39, 2002: Ord. 120181 § 67, 2000: Ord. 118397 § 53, 1996: Ord. 116368 § 74, 1992: Ord. 116000 § 8, 1991: Ord. 108762 § 10, 1980.)

20.50.090 Requirements inapplicable under certain conditions.

The provisions requiring and related to a formal advertised competitive selection process in this chapter shall be inapplicable in the following circumstances:

A. When a Department head determines that such provisions would adversely affect the City's interests either because an emergency exists or because compliance with such provisions would have a significant adverse effect. The Department head shall file a written explanation of the determination with the Contract.

B. When a Department head determines that only one (1) Consultant is available with the expertise required to provide the services desired. The Department head shall file a written explanation of the determination with the Contract.

C. Whenever services are obtained for the City through cooperative and/or joint agreements with any state or governmental agency or subdivision thereof, or any other governmental unit or any

public benefit nonprofit corporation.
(Ord. 121722 § 9, 2005; Ord. 120794 § 40, 2002: Ord. 120181 § 68, 2000: Ord. 118397 § 54, 1996: Ord. 116000 § 9, 1991: Ord. 112334 § 9, 1985; Ord. 108762 § 11, 1980.)

20.50.100 Consultant rosters.

The Director, in conjunction with interested Departments, may establish rosters of qualified Consultants for the use by any Department for skills or services in specialized areas of knowledge or experience. A Department may contract with a Consultant on the appropriate roster for assignments or projects within the described specialty without soliciting proposals as previously set forth in this chapter as long as: (A) each Contract is estimated to cost no more than the amount established pursuant to SMC Section 20.50.110; and (B) the Department has determined that its needs can be fully met without soliciting proposals through public advertising.
(Ord. 121722 § 11, 2005; Ord. 120794 § 44, 2002: Ord. 120181 § 71, 2000: Ord. 119651 § 5, 1999: 118397 § 57, 1996: Ord. 117583 § 1, 1995: Ord. 116000 § 13, 1991: Ord. 113797 § 2, 1987: Ord. 112334 § 1(part), 1985.)

20.50.110 Establishment and operation of rosters.

These provisions apply to the establishment, maintenance, and use of Consultant rosters:

A. Establishment and Duration.

1. The Director, in conjunction with participating Departments, shall establish Consultant rosters based on the different consultant skills or services that the City is likely to need during the effective time of the Consultant rosters.

2. The Director, in conjunction with participating Departments, shall issue Requests for Qualifications ("RFQ(s)") to establish Consultant rosters for use by any Department. At a minimum, the RFQ shall describe the skills or services needed by the City; the minimum qualifications to be placed on the particular Consultant roster; the roster contract dollar limits; the expected duration of the roster, if known; standard contract terms and conditions, if any; and a description of the process to be used for selecting Consultants off of the roster.

3. A Consultant roster shall remain in effect until such time as the Director determines it is in the best interests of the City to disestablish the roster. Departments may petition for the establishment or disestablishment of a roster, or a roster category where the existing rosters or roster categories do not meet the needs of the Department.

B. Opportunities for Small Business. Whenever fifteen (15) or more Consultants qualify as "small business concerns" in a single roster category, the category shall consist only of those Consultants who are eligible to be classified as a "small business concern." If fourteen (14) or fewer such Consultants are qualified, Consultants for that roster category shall be selected without regard to their eligibility under the small business criteria. A Consultant may evidence its qualification as a "small business concern" by:

1. Showing its qualification as a Small Business under the Small Business Act of the United States,

15 USC Section 632, and its implementing regulations, 13 CFR Part 121 or any successor legislation or regulations; or

2. Showing certification as defined in any City program designed to encourage the utilization of small businesses.

C. Limitations.

1. A Department may contract with the Consultants on the roster for projects estimated to cost no more than Two Hundred Thousand Dollars ($200,000) as adjusted in Section 20.50.110 C2.

2. A Department may amend any roster Contract for additional work related to the original roster Contract up to a total Contract amount of Two Hundred Fifty Thousand Dollars ($250,000).

3. Each Department may only use a certified roster Consultant up to a maximum amount of Four Hundred Thousand Dollars ($400,000) per year, per roster category.

D. Deletion From a Roster. The Director may delete a Consultant from the City's certified roster program at his or her discretion.

E. Adding to a Roster. During the existence of a roster, the Department of Executive Administration will perform, with assistance as needed from participating Departments, ongoing evaluations of any new Consultant application to a roster. All Consultants found to be qualified for a Consultant roster category will be added to that roster, except as a roster category may be limited to small businesses and except as a Consultant may be removed from the roster at the discretion of the Director.

F. Use of Roster Consultants Not Required. Placement on a Consultant roster makes a Consultant eligible for consideration and possible selection by a participating Department for providing services. Placement on a roster does not guarantee any Consultant any Contract for any amount. In addition, the City reserves the power to amend or repeal this chapter and to change or discontinue the roster system at any time.

G. Evaluation Criteria. Consultants shall be evaluated for placement on a roster on the basis of the ability of the Consultant to perform the work or service that the roster category was created for and to meet the minimum qualifications set forth in the request for qualifications.
(Ord. 121722 § 12, 2005; Ord. 120794 § 45, 2002; Ord. 120181 § 72, 2000; Ord. 119651 § 6, 1999.)

20.50.120 Escalation of dollar limitations.

All monetary amounts referenced in this chapter shall be annually adjusted hereafter by the Director, immediately following publication of the preceding year's annual Consumer Price Index for all urban consumers Seattle-Tacoma-Bremerton metropolitan area, All Items, (1982-84 = 100), or a successor index thereto, as determined by the U.S. Department of Labor, Bureau of Labor Statistics. The intent of this adjustment is to eliminate the effects of inflation or deflation on purchasing power and the authority granted by this chapter. All such monetary amounts, as adjusted, shall be rounded upwards to the nearest thousand dollars.
(Ord. 121722 § 13, 2005; Ord. 120794 § 43, 2002: Ord. 120181 § 70, 2000: Ord. 119651 § 4, 1999: Ord. 118397 § 56, 1996: Ord. 116000 § 12, 1991: Ord. 112334 § 10, 1985; Ord. 108762 § 14, 1980.)

20.50.130 Retention of expert witnesses and legal counsel.

A. In retaining any provider of legal advice or any expert witness in connection with anticipated or actual litigation, the Law Department, consistent with the City's legal interests, shall make reasonable efforts in good faith to contact and retain women and minorities, notwithstanding any other provision of this chapter.

B. The Law Department shall report back to the Finance and Budget Committee of the Seattle City Council once per year in 2006 and 2007 the number of times that it has retained any person for legal advice without a public solicitation process as permitted under Section 20.50.010 A 3 of this chapter. (Ord. 121722 § 14, 2005.)

Chapter 20.60[1]

PURCHASING AND PROCUREMENT

1. Editor's Note: Section 1 of Ordinance 121720 redesignated Chapter 3.04 Subchapters II and III (SMC 3.04.100 through SMC 3.04.226) of the Seattle Municipal Code as Chapter 20.60 of the Seattle Municipal Code. For purposes of classification and expansion of the Seattle Municipal Code, Chapter 20.60 has been further divided into Subchapters I through III at the editor's discretion.

Sections:

Subchapter I

In General (Reserved)

Subchapter II

Purchases

20.60.100 Purchasing powers.

Except as otherwise provided in this subchapter, the Director of Executive Administration shall purchase, sell or transfer, contract for, rent or lease all supplies, materials, equipment, and services other than expert and consultant services needed by various departments of the City government, referred to in this subchapter as "using" agencies; provided, that the Director of Executive Administration is authorized to enter into cooperative and/or joint agreements with any state or governmental agency or subdivision thereof, or any other governmental unit or any public benefit nonprofit corporation for the purchase of such supplies, materials, equipment, and services under the purview of this chapter; provided, further, that such public benefit nonprofit corporation is an agency that is receiving local, state, or federal funds either directly or through a public agency; provided, further, that purchases made pursuant to any such agreement shall be separately invoiced to the respective purchasers in accordance with the purchases made by each; and provided, further, that each such purchaser shall be responsible for payment for its own purchases only. Purchases made for the City under a purchasing contract executed by a state, or agency or subdivision thereof, or by another governmental unit or public benefit nonprofit corporation shall be exempt from the competitive bidding and related requirements of Section 20.60.106.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 28, 2000: Ord. 118338 § 9, 1996: Ord. 116007 §§ 10, 27(part), 1991: Ord. 102151 § 2, 1973.)

20.60.101 Definition.

As used in this subchapter, "Director" shall mean the Director of Executive Administration.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002.)

20.60.102 Compliance by City officers and employees--Exceptions.

No city officer or employee shall have the authority to order or contract for the purchase of any supplies, materials, equipment, or service within the purview of this subchapter except through, or in accordance with rules and regulations prescribed by the Director and no order or contract made contrary to the provisions of the subchapter shall be approved by the Director or any subordinate thereof or be binding upon the City; provided, that contracts for services in connection with public works and construction, or by consultants pursuant to SMC Chapter 20.50, and all contracts for services in connection with the acquisition of real property and property rights, processing of claims and all litigation of the City or in which the City or any of its departments may be interested, shall be exempt from the requirements of this section.
(Ord. 121722 § 16, 2005; Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 29, 2000: Ord.

118397 § 19, 1996: Ord. 117159 § 7, 1994: Ord. 116007 §§ 11, 27(part), 1991: Ord. 112044 § 1, 1984: Ord. 111829 § 1, 1984: Ord. 102151 § 3, 1973.)

20.60.106 Competitive bidding--Cost over $30,000.

A. Except in emergencies provided for in this subchapter, all expenditures for supplies, materials, equipment, and services within the purview of this subchapter the estimated cost of which is in excess of Thirty Thousand Dollars ($30,000) per requisition shall be made on written contract entered into upon the basis of competitive bids and are subject to the preferences provided by SMC Section 20.60.210. Notices inviting sealed competitive bids shall be published at least once in the City official newspaper, and at least five (5) calendar days must intervene between the date of the last publication and the final date for submitting the bids; provided, that purchases of patented or proprietary items available from a single source, or purchases or contracts for services within the purview of this subchapter where competitive bidding is deemed impracticable by the Director, shall be exempt from the competitive bidding requirements of the section; provided, further, that the purchase of supplies, materials, and equipment to be resold by the using agency may be negotiated for by the Director when, in his or her judgment, the lowest and best price can be obtained by such negotiation.

B. All such bids shall be submitted sealed to the Director and shall be accompanied by surety in such form and amount as shall be prescribed by the Director in the notice inviting bids.

C. The bids shall be opened in public at the time and place stated in the notice inviting bids. No bids will be considered which arrive at the place of bid opening at any time later than the time specified in the notice inviting bids. After examination and tabulation by the Director, all bids may be inspected by the competing bidders. The Director may reject any or all bids, or part of bids, and shall state in writing and keep a record of the reason or reasons for such rejection, which record shall be open to public inspection. Otherwise the Director shall award the contract to the lowest and best bidder, or in the case of multiple awards to the lowest and best bidders. In determining the lowest and best bidder, the Director may consider such factors, among others, as quality, delivery terms, and service reputation of the vendor.

D. An Invitation to Bid may specify that life cycle costing will be used either as the exclusive basis for evaluating bids or on an alternative basis. If sufficient life cycle cost information is readily available, the Director shall consider the life cycle cost in determining the lowest and best bid in accordance with the Invitation to Bid. "Life cycle cost" means the total cost to the City of the supplies, materials, or equipment procured over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal as far as these costs can be reasonably determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" means the estimated time from the date of acquisition to the date of replacement or disposal, determined in a reasonable manner.

E. When in the judgment of the Director, bids require further information and analysis for the purpose of determining the lowest and best bidder, he/she may request that bidders provide pertinent information, and on receipt thereof may negotiate with one (1) or more bidders and award such contract to the lowest and best bidder as determined by such negotiation.

F. When two (2) or more low bids received are for the same total amount or unit price, the Director may allow such tied bidders to offer a lower price or may make such purchase in the open market at a price not exceeding such bid price.

G. The Director may require, before any contract is executed, that the successful bidder furnish a performance bond in such amount as said official shall find reasonable and necessary, which requirement shall be stated in the notice inviting bids. All surety bonds shall be subject to approval as to form by the City Attorney. If the successful bidder does not enter into a contract and file any required surety within ten (10) days after the award, such bidder shall forfeit the surety which accompanied its bid. A copy of each contract covering a term of three (3) months or more together with any required surety for performance thereof, shall be filed with the City Clerk.

H. As authorized by RCW 39.30.040, for determining the lowest and best bidder, the Director shall take into consideration the tax revenues derived by the City from its business and occupation or utility taxes (Seattle Municipal Code Chapters 5.45 and 5.48) and its sales and use taxes (Seattle Municipal Code Chapter 5.60) from the proposed purchase.

(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120668 § 25, 2001; Ord. 120181 § 30, 2000: Ord. 118397 § 20, 1996: Ord. 118338 § 1, 1996; Ord. 117242 § 2, 1994; Ord. 117159 § 8, 1994; Ord. 116270 § 1, 1992; Ord. 116131 §§ 1, 2, 1992; Ord. 116007 §§ 13, 27(part), 1991: Ord. 116004 § 1, 1991; Ord. 113501 § 1, 1987; Ord. 110009 § 1, 1981: Ord. 105150 § 1, 1975: Ord. 104710 § 1, 1975: Ord. 102151 § 5, 1973.)

Cases: In letting a contract pursuant to City's competitive bidding law, Purchasing Agent did not have the right, after the bid opening, to negotiate with an individual bidder to lower the bidder's bid price without giving the same opportunity to all bidders. Platt Elec. Sup., Inc. v. City of Seattle, 16 Wn.App. 265, 555 P.2d 421 (1976).

20.60.108 Zoo animals and specimens.

The Director shall effect acquisition or disposal by sale, purchase, trade, exchange, or loan, of all zoo animals and other zoo specimens and where competitive bidding is deemed impracticable by the Director, such acquisition or disposal shall be exempt from the competitive bidding requirements of this subchapter and the same may be effected by negotiated agreements by the Director in cooperation with the Superintendent of Parks and Recreation in accordance with such procedures as may be established by the Director.

(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 31, 2000: Ord. 118397 § 21, 1996: Ord. 116007 §§ 14, 27(part), 1991: Ord. 104710 § 2, 1975: Ord. 102151 § 5A, 1973.)

20.60.110 Expenditures under $30,000.

All expenditures for supplies, materials, equipment, and services within the purview of this subchapter, the estimated cost of which will not exceed Thirty Thousand Dollars ($30,000) per requisition may be made in the open market; provided, that to the extent possible, the Director or his or her designated representative shall endeavor to obtain from prospective vendors at least three (3) competitive bids, and shall award such purchase to the lowest and best bidder, subject to the preferences provided by SMC Section 20.60.210. The Director or his or her designated representative may, in his or her discretion, determine the lowest and best bidder for expenditures under Thirty Thousand Dollars ($30,000) per requisition by the same criteria as used for larger purchases. When the Invitation to Bid so specifies, and if sufficient life cycle cost information is readily available, the Director shall consider the life cycle cost in determining the lowest and best bidder in accordance with the Invitation to Bid.

(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 32, 2000: Ord. 118397 § 22, 1996: Ord. 118338 § 2, 1996: Ord. 117159 § 9, 1994: Ord. 116270 § 2, 1992: Ord. 116131 § 3, 1992: Ord. 116007 § 15, 1991: Ord. 116004 § 2, 1991: Ord. 110009 § 2, 1981: Ord. 102151 § 6, 1973.)

20.60.112 Open market purchases where bidding is impractical.

The Director or his or her designated representative may secure in the open market without bids any supplies, materials, equipment, or services within the purview of this subchapter, the cost of which will not exceed Five Thousand Dollars ($5,000) per item, when the delay and expense of handling bids on small purchases would not be advantageous to the City. The Director may delegate any or all of the powers in this section to other departments at his or her discretion.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 33, 2000: Ord. 118833 § 4, 1997: Ord. 118397 § 23, 1996: Ord. 118338 § 3, 1996: Ord. 116007 §§ 16, 27(part), 1991: Ord. 102151 § 7, 1973.)

20.60.114 Emergency purchases.

In case of an emergency which requires immediate purchase of supplies, materials, equipment, or services within the purview of this subchapter the Director or such other City officers or employees authorized by ordinance or rule to act in such event may make such purchases in the open market without advertisement at the best obtainable price regardless of the amount of the expenditure; and in determining the best price, such factors, among others, as quality, delivery terms, and service reputation of the vendor, may be considered; provided, that expenditures amounting to more than Ten Thousand Dollars ($10,000) per requisition shall be based on written contract; and provided, further, that a full explanation of the circumstances of such emergency shall be filed by the using agency with the Director.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 34, 2000: Ord. 118397 § 24, 1996: Ord. 116007 §§ 17, 27(part), 1991: Ord. 102151 § 8, 1973.)

20.60.116 Items purchased by published price list.

In the purchase of supplies, materials, equipment or services needed continuously or repeatedly, including catalog or standard production items, the price of which is determined by published price lists, the Director may enter into "open-end," "blanket-order," or "price-agreement" contracts.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 35, 2000: Ord. 118397 § 25, 1996: Ord. 116007 §§ 18, 27(part), 1991: Ord. 102151 § 9, 1973.)

20.60.118 Leasing or rental of equipment.

The leasing and renting of equipment by the using agencies shall be contracted for by the Director, subject, where practicable, to competitive bidding.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 36, 2000: Ord. 118397 § 26, 1996: Ord. 116007 §§ 19, 27(part), 1991: Ord. 102151 § 10, 1973.)

20.60.120 Repair or maintenance of equipment.

In the repairing or maintenance of City equipment where the City is not equipped or able to perform the work, and when it is impossible to estimate the repairs necessary until such equipment is dismantled, the Director may award a contract or contracts to those responsible firms that he or she is convinced can do satisfactory repairing.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 37, 2000: Ord. 118397 § 27, 1996: Ord. 116007 §§ 20, 27(part), 1991: Ord. 102151 § 11, 1973.)

20.60.122 Inspection of deliveries.

A. The Director shall be responsible for the inspection of all deliveries of supplies, materials, equipment, and services within the purview of this subchapter, and the acceptance thereof as to conformance with the specifications set forth in the order or contract.

B. To facilitate such inspection, personnel employed by the using agencies and having assigned responsibility for receiving supplies, materials, equipment, and services may be designated as representatives of the Director to make inspections and accept deliveries in accordance with rules and regulations prescribed by the Director.

C. All such supplies, materials, equipment or services shall be receipted for by an authorized Department receiving clerk or by such designated representative in the using agency, and a written report of such receipt shall be transmitted to the Director. No payment shall be made for any such supplies, materials, equipment, or services unless the same have been receipted and a written report thereof has been made as provided in this section.

D. The return or exchange of any merchandise received by a using agency shall be handled directly through a Department receiving clerk or such a designated representative in the using agency, who shall obtain a credit memorandum from the firm which originally supplied the merchandise.

E. Invoices issued against such supplies, materials, equipment, leases, rentals, repairs, or services shall be submitted to the Director, who shall approve the same as to price, delivery, or work performed before any voucher for payment shall be issued.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 38, 2000: Ord. 118397 § 29, 1996: Ord. 116007 §§ 21, 27(part), 1991: Ord. 102151 § 12, 1973.)

20.60.124 Reports of supplies on hand--Sale or transfer of surplus.

A. All using agencies shall submit to the Director, at such times and in such form as he or she shall prescribe, reports showing stocks of supplies, materials and equipment on hand awaiting use. When any stock is surplus or no longer of use to any using agency, the Director may transfer it to another or other agencies which have need for it, subject to adjustment between the agencies concerned. The Director may sell all supplies, materials, and equipment not needed for public use or that may have become unsuitable for public use; provided, that, except for computer equipment disposed of under subsection B, any such sale shall be based on competitive bids in the same manner required for purchases unless the Director shall determine competitive bidding to be impracticable.

B. Notwithstanding any other provision of this code, the Director, the Director of the Department of Human Services, and the Director of the Department of Neighborhoods may dispose of surplus computer equipment in accordance with Ordinance 119145 as it now exists or as it may hereafter be amended.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 39, 2000: Ord. 119145 § 6, 1998: Ord. 118397 § 29, 1996: Ord. 116007 §§ 22, 27(part), 1991: Ord. 102151 § 13, 1973.)

20.60.126 Testing of samples.

The Director may prescribe chemical and physical tests of samples submitted with bids and samples of deliveries to determine their quality and conformance with the City's specifications. These tests may include tests which evaluate a product's ability to meet recycled content standard product specifications established in SMC Section 20.60.208. In the performance of such tests, the Director may use private testing laboratories. The costs of such tests shall be charged to the appropriate budget allowance of the using agency on whose behalf such test is made.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 40, 2000: Ord. 118397 § 30, 1996: Ord. 116270 § 3, 1992: Ord. 116131 § 4, 1992: Ord. 116007 §§ 23, 27(part), 1991: Ord. 102151 § 14, 1973.)

20.60.130 Examination of requisition--Brand and trade names.

A. It shall be the duty of the Director to examine each requisition and specification submitted by any using agency and determine whether the same is clear and may be readily understood by prospective bidders and provides a sound basis for competitive bidding. When, in the judgment of the Director, any requisition or specification is vague, ambiguous or unduly restricts competitive bidding, he or she shall return the same to the using agency for clarification or modification.

B. The Director shall avoid, to all practicable extent, the use of brand or trade names as criteria for procurement of supplies, materials, equipment and services when, in his or her judgment, such purchases can be accomplished to the greater advantage of the City through use of general specifications.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 41, 2000: Ord. 118397 § 31, 1996: Ord. 116007 §§ 25, 27(part), 1991: Ord. 102151 § 16, 1973.)

20.60.132 Contracting with sheltered workshops--Exemption.

Pursuant to and in accordance with RCW 39.23.005 and RCW 39.23.020, and notwithstanding the provisions of SMC Section 20.60.106, the Director is hereby authorized to directly negotiate, and without competitive bidding, to contract with qualified sheltered workshops for purchase of products manufactured or provided by sheltered workshops and programs and for the provision of janitorial services for City-owned facilities. Such purchases shall be at the fair market price of such product and services as determined by the City.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 42, 2000: Ord. 118397 § 32, 1996: Ord. 117146 § 1, 1994: Ord. 116007 §§ 26, 27(part), 1991: Ord. 114738 § 1, 1989.)

20.60.140 Escalation of dollar limits.

A. As of January 1, 1997, all monetary amounts specified in Sections 20.60.106 and 20.60.110 shall be annually adjusted hereafter by the Director, consistent with the formula described in SMC Section 20.50.120 for adjustment of the consultant selection threshold, so that the thresholds for competitive bidding for purchases and the consultant selection threshold are maintained at the same amount.

B. As of January 1, 1997, the monetary amounts specified in Section 20.60.112 shall be adjusted every five (5) years by the Director immediately following publication of the preceding year's annual Consumer Price Index for all urban consumers Seattle-Tacoma metropolitan area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, to eliminate the effects of inflation or

deflation on purchasing power and the authority granted by this subchapter. Such monetary amount, as adjusted, in Section 20.60.112 shall be rounded upwards to the nearest Thousand Dollars ($1,000).
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 43, 2000: Ord. 118397 § 33, 1996: Ord. 118338 § 4, 1996.)

Subchapter III

Recycled Content Product Procurement Program

20.60.200 Purpose.

The purpose of this program is to:

A. Substantially increase the procurement of reusable products, recycled content products and recyclable products by all departments, providing a model to encourage comparable commitment by Seattle citizens and businesses in their purchasing practices;

B. Target procurement of products made from recycled materials for which there are significant market development needs or that may substantially contribute to the use of locally recycled materials;

C. Adopt content standards for recycled content and recyclable products for use in procurement programs by all departments;

D. Provide the Director with the necessary authority to adopt preferential purchasing policies for recycled content and recyclable products, including price preferences and set-asides.
(Ord. 121720 §§ 1, 2, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 44, 2000; Ord. 118397 § 34, 1996: Ord. 116270 § 4(part), 1992.)

20.60.202 Definitions.

1. "City solid waste stream" means any solid waste created or generated within City limits whether residential or nonresidential.

2. "Content standards" means standards adopted by the Director pursuant to SMC 20.60.208 for the purpose of specifying content requirements that must be satisfied before a product may be deemed a recycled content product or a recyclable product. The content standards may address categories of products or particular products.

3. "Contractor" means persons or companies contracting with the City for the purchase of any supplies, materials, equipment or service. This definition does not include contracts for services in connection with:

a. The acquisition of real property and property rights;

b. Processing of claims; and

c. All litigation of the City or in which the City or any of its departments may be interested.

4. "Local recycled content product" means such product or products that are derived from recycled materials recovered from City solid waste, provided the material used in the manufacture of such products can be reasonably traced back to its generation within City limits. Such products must contain a minimum of twenty-five (25) percent recycled materials except in those cases where the U.S. Environmental Protection Agency has adopted procurement guidelines under the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. Section 6901 et seq.) ("RCRA"). In those cases, the minimum content of recycled material shall not be less than specified in the most current adopted issue of those guidelines.

5. "Paper and paper products" means all items manufactured from paper or paperboard.

6. "Post-consumer waste" means solid waste, including yard waste, that has passed through its end use as a consumer item and is suitable as feedstock in product manufacture.

7. "Purchase contract" means any contract or order which is duly authorized and awarded or entered into by the Director or a department for the purchase of tangible goods.

8. "Recyclable product" means a product or package made from a material for which curbside or drop-off collection systems are in place for a majority of City residents or businesses, to divert from City solid waste for use as a raw material in the manufacture of another product or the reuse of the same product.

9. "Recycled content product" means a product containing a minimum of twenty-five (25) percent recycled materials except in those cases where the U.S. Environmental Protection Agency has adopted procurement guidelines under the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. Section 6901 et seq.). In those cases, the minimum content of recycled material shall not be less than specified in the most current adopted issue of those guidelines.

10. "Recycled materials" means post-consumer waste or secondary waste that has been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product.

11. "Reusable product" means a product that can be used several times for an intended end use before being discarded, such as a washable food or beverage container or a refillable ballpoint pen.

12. "Secondary paper waste" means paper waste generated after the completion of a paper or paper product making process, such as envelope cuttings, bindery trimmings, printing waste, cutting and other converting waste, bud rolls, mill wrappers, and obsolete inventories, rejected unused fibrous waste generated during the manufacturing process such as fibers recovered from waste or trimmings of paper machine rolls (mill broke), or fibrous byproducts of harvesting, extractive or woodcutting processes, or forest residue such as bark.

13. "Secondary waste" means waste resulting from a part of a manufacturing process that, unless incorporated as a feedstock in product manufacture, must be disposed of as solid or hazardous waste.

14. "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, except wastes identified in WAC 173-304-015, including but not limited to garbage, rubbish, ashes, industrial wastes, swill,

demolition and construction wastes, abandoned vehicles or parts thereof, discarded commodities, sludge from wastewater treatment plants and septage from septic tanks, wood waste, dangerous waste, and problem wastes. This includes all public, private, industrial, commercial, mining and agricultural operations. Unrecovered residue from recycling operations shall be considered solid waste.

15. "USEPA product standards" means the product standards of the United States Environmental Protection Agency published in the Code of Federal Regulations, Title 40, Chapters 248 through 253. (Ord. 121720 §§ 1, 3, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 45, 2000; Ord. 118397 § 35, 1996; Ord. 116270 § 4(part), 1992.)

20.60.204 Policies.

A. All departments shall use, where practicable, reusable products, recycled content products and recyclable products. The term "practicable" shall mean that the product performs adequately for its intended use and is available at a fair and reasonable price.

B. The City shall require, whenever practicable, its vendors, contractors and consultants to use recycled content paper on all documents submitted to the City. In addition, the City shall require, whenever practicable, its vendors, contractors, and consultants to use reusable products, recycled-content products and recyclable products. Failure of a vendor, contractor, or consultant to specify how it will comply this requirement may cause the City to determine that a bid is non-responsive.

C. The City shall maintain minimum content standards for the purchase of designated products, as consistent with USEPA and Washington State products and standards.

D. The Director may use recycled material content as a factor in determining the lowest and best bid in its procurement of goods and materials.

E. The Director shall promote the use of recycled content products and recyclable products to potential vendors to the City by publicizing that the City emphasizes the use of environmentally preferable products by its contractors.

F. The Director, through the procedures set forth in SMC Chapter 3.02, is authorized to establish guidelines or rules to further the intent of this section and ordinance.

G. This section shall apply equally to the Director and any department when it acts to acquire any aspects of public works for the City.

H. These policies are intended to be compatible with the strategies and standards of the City's environmental management and sustainable purchasing programs.

I. Existing procurement policies and specifications shall be revised to include recycled content products or recyclable products unless the products do not meet an established performance standard of a department. In such situations, a department must provide the Director with satisfactory evidence that, for technical reasons, and for a particular end use, a product containing such materials will not meet reasonable performance standards.

(Ord. 121720 §§ 1, 4, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 46, 2000; Ord. 118397 § 36, 1996: Ord. 116726 § 1, 1993: Ord. 116270 § 4(part), 1992.)

20.60.206 Annual report.

The Director shall provide an annual report to the City Council each year on the status of buy recycled activities. This report shall include data on the City's purchases of recycled content products, recyclable products, and reusable products. The Director may require periodic reporting by other departments to the Department of Executive Administration for the purpose of developing this report.
(Ord. 121720 §§ 1, 5, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 47, 2000; Ord. 118397 § 37, 1996: Ord. 116726 § 2, 1993: Ord. 116270 § 4(part), 1992.)

20.60.207 Reusable products.

A. City departments shall purchase reusable products including but not limited to office furniture and partitions, removable wall systems, laser printer toner cartridges and retreadable tires.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 48, 2000; Ord. 116726 § 3, 1993.)

20.60.208 Standards for recycled content.

A. The Director shall adopt standards that specify minimum recycled content, recyclability, reusability, or other aspects of environmental preferability, consistent with the U.S. Environmental Protection Agency ("USEPA"). Washington State standard, and any City environmental management plan. In no case shall these standards be less stringent than USEPA standards. In addition, the Department may adopt standards for products that have not been addressed by USEPA or Washington State. The standards shall place primary emphasis upon the percentage of post-consumer waste content and the recyclability of the product.

1. Recycled content product. The content standards shall address required amounts of recycled materials. The content standards may break down recycled materials into specified required amounts of post-consumer waste and secondary waste. The required amount of recycled materials shall be:

    a. For all products for which the USEPA adopts procurement guidelines under RCRA, the required amount of recycled materials shall be at least that amount as specified in the guidelines and shall change as the guidelines are updated and adopted.

    b. For all other products, the amount of recycled materials shall be at least twenty-five (25) percent of all materials contained in the product.

The content standards may address other items as deemed appropriate by the Director.

B. The recyclability of a material shall be determined by whether or not in-City collection systems are in place to divert the material from City solid waste for use as a raw material in the manufacture of another product or the reuse of the same product. The existence of regional markets and identifiable end uses for a material shall also be taken into consideration when determining the recyclability of a material.

C. The Director shall consult with the appropriate departments regarding technical and performance specifications for products in those situations where a department has specific expertise in the use of the product or the establishment of the product's performance specifications.

D. The standards and specifications established pursuant to this section shall guide product purchasing by the Director and all departments.

E. Standards established pursuant to this section shall be developed for any additional products for which either Washington State or USEPA recycled-content standards are developed in the future. In addition, the Director may, at his or her discretion, adopt content standards for products for which standards have not been established by Washington State or the USEPA.
(Ord. 121720 §§ 1, 6, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 49, 2000; Ord. 118397 § 38, 1996: Ord. 116726 § 4, 1993: Ord. 116270 § 4(part), 1992.)

20.60.210 Price preference.

A. The Director shall adopt rules for applying a price preference toward the purchase of recycled-content products. The rules shall be applicable to purchases by the Director and all departments for those products identified in this subchapter, as well as for other products for which content standards are developed according to SMC Section 20.60.208. The rules shall include a maximum price preference of ten (10) percent of the lowest and best bid or price quoted by suppliers offering products without recycled content for recycled content products (as defined in SMC Section 20.60.202), unless the Director determines that a different price preference is warranted based upon factors such as the prevailing market price, product availability, and product quality. The rules shall include a price preference of fifteen (15) percent of the lowest and best bid or price quoted by suppliers offering products without recycled content, for local recycled-content products (as defined in SMC Section 20.60.202) unless the Director determines that a different preference is warranted based upon factors such as the prevailing market price, availability and product quality.

B. A price preference shall be applied only to those bids where a nonrecycled content product is determined to have the lowest and best bid and similar products with recycled content have also responded to the bid. Where the Director determines that the purchase of a recycled-content, recyclable or reusable product is practicable as defined in SMC Section 20.60.204, a price preference shall not be applied. Upon determination that the purchase of such a product is practicable, the Director shall require that recycled content, recyclability or reusability be required as specifications in any invitations to bid for that product.
(Ord. 121720 §§ 1, 7, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 50, 2000; Ord. 118397 § 39, 1996: Ord. 116270 § 4(part), 1992.)

20.60.212 Requirements for purchase contracts.

A. The Director shall use the standards, procedures, and criteria specified in this chapter in conjunction with other factors as authorized by Charter[1] and ordinance. If a bidder, in response to any invitation to bid, offers to supply the City with one (1) or more recycled-content or recyclable products, the Director shall reduce the actual bid amount for each such product by the applicable price preference developed pursuant to SMC Section 20.60.210. The reduced bid amount for each such product shall be used only for purposes of determining the lowest and best bid. However, nothing in this subchapter shall preclude the Director from requiring local recycled content, recycled content or recyclable content as specifications in invitations to bid for

any products. The Director may adopt specifications requiring that only local recycled-content products, recycled-content products or recyclable-content products be responsive even though the cost of such goods exceeds ten (10) percent of the price of equivalent products without recycled content.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002: Ord. 120181 § 51, 2000: Ord. 118397 § 40, 1996: Ord. 116270 § 4(part), 1992.)

1. Editor's Note: The Charter is set out at the front of the Seattle Municipal Code.

20.60.214 Bid notification.

A statement regarding the Director's or a department's intent to procure recycled-content products or recyclable-content products must be prominently displayed in the procurement solicitation or invitation to bid including:

A. A statement in each product specification describing the post-consumer waste content or recycled-content preferred; and

B. A statement describing the City's price preference policy for recycled-content products and the manner in which such price preference for recycled-content products shall be applied in evaluating the responses or bids; and

C. A statement that the Director or any department which procures a product shall have the right to verify the certification by review of the bidder or manufacturer's records as a condition of the bid award.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002; Ord. 120181 § 52, 2000; Ord. 118397 § 41, 1996; Ord. 116270 § 4(part), 1992.)

20.60.216 Vendor certification of recycled material content.

A. After December 1, 1992, vendors shall certify the percentage of recycled content in products sold to the City, including the percentage of post-consumer waste that is in the product. The certification shall be in the form of a label on the product or a statement by the vendor attached to the bid documents.

B. The certification on multicomponent or multimaterial products shall verify the percentage and type of post-consumer waste and recycled content by volume contained in the major constituents in the product.

C. Products which meet certification rules and guidelines adopted by The State of Washington or USEPA shall be deemed to meet the requirements of this section.
(Ord. 121720 §§ 1, 8, 2005; Ord. 120794 § 10(part), 2002; Ord. 120181 § 53, 2000; Ord. 116270 § 4(part), 1992.)

20.60.218 Rules and regulations for procurement of paper and paper products including the following provisions.

A. The Director and departments shall purchase and/or use only recycled-content paper for all imprinted letterhead, envelope and business card paper, file folders, writing and message tablets, photocopy paper, sanitary papers, packaging papers, and printing papers. In addition, the Director and departments shall purchase recycled-content photocopy paper that has not been bleached with a chlorine-based lighting process, including elemental chlorine gas, chlorine dioxide, or hypochlorite when nonchlorinated bleached photocopy

paper is readily available and similarly priced.

B. Departments shall publicize the City's use of recycled paper by printing the words "Printed on Recycled Paper" or a recycled content logo on all letterhead, envelope and business card paper and on the title page of all reports printed on recycled paper, or by using recycled paper which is watermarked with the recycled content logo.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002; Ord. 120181 § 54, 2000; Ord. 118397 § 42, 1996; Ord. 116726 § 5, 1993; Ord. 116270 § 4(part), 1992.)

20.60.220 Requirements and procedures for designation and procurement of other recycled-content products and recyclable products.

Any department or vendor may petition the Director to qualify a product as a recycled content or recyclable product on a case-by-case and/or product-by-product basis. The department or vendor shall be responsible for providing sufficient evidence to the Director that the product qualifies for the purpose of procuring recycled content or recyclable products.
(Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002; Ord. 120181 §§ 55, 2000; Ord. 118397 § 43, 1996; Ord. 116270 § 4(part), 1992.)

20.60.222 Capital improvement projects and construction contracts.

A. The City's preference for the purchase and use of recycled-content products shall be included as a factor in the design and development of City capital improvement projects.

B. Where the Seattle Design Commission is required to review proposals for the design of a project, the Commission shall promote reasonable attempts to include recycled-content products.

C. All City departments shall change their standard specifications to include recycled-content products and materials adopted pursuant to this subchapter.
(Ord. 121720 §§ 1, 9, 2005; Ord. 120794 § 10(part), 2002; Ord. 120181 § 56, 2000; Ord. 116726 § 6, 1993; Ord. 116270 § 4(part), 1992.)

20.60.224 Responsibilities of the Director.

The Director is responsible for:

A. Collecting data on purchases by departments of recycled-content products, reusable products, and recyclable products on purchase orders;

B. Maintaining a directory of recycled-content products and recyclable products and vendors who carry these products;

C. Disseminating product information to departments;

D. Developing and establishing rules, guidelines and specifications necessary to carry out these functions.

(Ord. 121720 §§ 1, 10, 2005; Ord. 120794 § 10(part), 2002; Ord. 120181 § 57, 2000; Ord. 118397 § 44, 1996; Ord. 116270 § 4(part), 1992.)

20.60.226 Exemptions.

Nothing in this Subchapter III shall be construed as requiring a City department or contractor to procure products that do not perform adequately for their intended end use as specified in Section 20.60.208. (Ord. 121720 § 1, 2005; Ord. 120794 § 10(part), 2002; Ord. 120181 § 58, 2000; Ord. 116270 § 4(part), 1992.)

Chapter 20.70

DEBARMENT

Sections:

20.70.010 Purpose.

The Director of the Department of Executive Administration has the authority to debar contractors to prevent them from entering into certain contracts with the City of Seattle as described in this Chapter. (Ord. 121723 § 1, 2005.)

20.70.020 Definitions.

Terms used in this Chapter shall have the following definitions unless otherwise defined, or unless the context in which the term is used clearly indicates to the contrary.

A. "Contracting Authority" means the Department of Executive Administration or any City Agency to which the City Council or the Department of Executive Administration has delegated the authority to enter into contracts.

B. "Contract" means a contract for public work as that term is defined in RCW 39.040.010, a purchasing contract as provide for in SMC 20.60.100 et seq., or a consultant contract as provided for in SMC Ch. 20.50.

C. "Contractor" means a person, association, partnership, corporation or other legal entity that has performed services for the City under a Contract.

D. "Date of Service" means the day a Contractor receives actual service, or if served by certified mail, the date noted as the date of receipt by the U.S. Postal service.

E. "Debarment Authority" means a person to whom the Director of Executive Administration has delegated the authority to perform any of the duties set forth in this Chapter.

F. "Debar," "Debarred," or "Debarment" means to forbid a Contractor from entering into any Contract with the City or to act as a subcontractor on a Contract with the City.

G. "Director" means the Director of the Department of Executive Administration.

H. "Notice Protest" means a written response to or contest of the Notice of Debarment.

I. "Notice of Debarment" means the document reflecting the preliminary determination by the Director that a Contractor should be Debarred.

J. "Notice of Investigation" means a document reflecting the initiation of a Debarment investigation.

K. "Order of Debarment" means the document reflecting the decision by the Director to Debar a Contractor.

L. "Performance Evaluation" means an evaluation conducted by the City of performance under a Contract or as part of any City Contractor performance evaluation program for Contracts.

M. "Respondent" means a Contractor against which the City has initiated Debarment proceedings. (Ord. 121723 § 1, 2005.)

20.70.030 Authority to order Debarment and to Grant Exceptions.

A. If the Director determines that sufficient grounds exist as set forth in Section 20.70.040, the Director may issue an Order of Debarment that prevents a Contractor from submitting a contract bid or proposal to the City, or from acting as a subcontractor on any Contract with the City, for a period not to exceed five (5) years from the date of the Order of Debarment or from the date all appeals of that Order of Debarment are exhausted, whichever date is later. Without the prior approval of the Director, a Contracting Authority shall not accept a contract bid or proposal from a Contractor that has been Debarred, and shall not consent to a subcontract between a Contractor and a subcontractor that has been Debarred.

B. The Director may, but is not required to, enter into a voluntary agreement with a Contractor providing that the Contractor will not submit a bid or proposal for any Contract, and will not act as a subcontractor on any Contract, for a period not to exceed five (5) years.
(Ord. 121723 § 1, 2005.)

20.70.040 Grounds for Debarment.

Pursuant to Section 20.70.030, the Director may issue an Order of Debarment that prevents a Contractor from entering into any Contract with the City or from acting as a subcontractor on any Contract with the City after determining that any of the following reasons exist:

A. The Contractor has received overall performance evaluations of deficient, inadequate, or substandard performance on three (3) or more City Contracts.

B. The Contractor has failed to comply with City ordinances or Contract terms, including but not limited to, ordinance or Contract terms relating to small business utilization, discrimination, prevailing wage requirements, equal benefits, or apprentice utilization.

C. The Contractor has abandoned, surrendered, or failed to complete or to perform work on or in connection with a City Contract.

D. The Contractor has failed to comply with Contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards.

E. The Contractor has submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a Contract.

F. The Contractor has colluded with another contractor to restrain competition.

G. The Contractor has committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Contract for the City or any other government entity.

H. The Contractor has failed to cooperate in a City debarment investigation.

I. The Contractor has failed to comply with SMC Ch. 14.04, SMC Ch. 14.10, SMC Ch. 20.42, or SMC Ch. 20.45, or other local, state or federal non-discrimination laws.
(Ord. 121723 § 1, 2005.)

20.70.050 Procedures.

A. Notice of Investigation. The Director or any Contracting Authority may initiate an investigation of a Contractor. The Director or Contracting Authority shall notify the Contractor in writing that an investigation has been initiated and the allegations that form the basis for the investigation. The Notice of Investigation shall be either personally served or sent by certified mail. The Contractor shall have twenty-one (21) days from the Date of Service of the notice of investigation and allegations on the Contractor to file an answer to the allegations.

B. Investigation Results. The results of the investigation shall be in writing and shall state, at a minimum, the allegation(s), the conclusion(s) reached regarding the allegation(s), the facts upon which the conclusion(s) are based, and the investigator's recommendation, including a recommended length of Debarment, if any. If the investigator is a Contracting Authority, it shall forward the results of the investigation to the Director. The Director shall personally serve or send by certified mail, the results of the investigation to the Contractor.

C. Findings and Notice of Debarment. The Director shall consider both the results of the investigation and the Contractor's answer, if any, to the allegation(s). The Director shall make a preliminary determination on whether the Contractor should be Debarred within six (6) months of the Date of Service of the Notice of Investigation and provide the Contractor with findings, or the matter will be dismissed, unless the Director provides notice to the Contractor that there is good cause to extend the period of investigation for an

additional specific period of time. If, after reviewing the results of the investigation and the Contractor's answer to the allegations, the Director determines that a Contractor should be Debarred, the Director shall notify the Respondent of the City's intent to issue an Order of Debarment. The Notice of Debarment shall be in writing, and shall be either personally served or sent by certified mail. The Notice of Debarment shall include:

1. A statement that the City intends to issue an Order of Debarment prohibiting the Respondent from submitting a bid or proposal on a Contract with the City and from acting as a Contractor or subcontractor on a Contract with the City;

2. A statement of the reasons for Debarment, including the allegation(s), the conclusion(s) reached regarding the allegation(s), and the facts upon which the conclusion(s) are based;

3. The proposed length of Debarment; and

4. Information on how the Respondent can contest the Notice.

If the Director determines that the Contractor should not be debarred, the Director shall issue a written determination to that effect.

D. Notice Protest.

1. A Respondent may contest the Notice of Debarment by filing a written Notice Protest with the Director no later than fourteen (14) calendar days after the Date of Service of the Notice of Debarment. Unless waived by the Director, filing a Notice Protest is an administrative remedy that the Respondent must exhaust before seeking judicial review.

2. If the Respondent does not timely contest the Notice of Debarment, the Director shall issue an Order of Debarment, which shall set forth:

   a. The contracting activities from which the Respondent is barred from participating;

   b. The length of the Debarment;

   c. A brief statement of the facts upon which the Debarment is based; and,

   d. A response to any written comments submitted by the Respondent.

3. The Notice Protest must state the reasons why the Respondent alleges the Notice of Debarment is erroneous, provide copies of any documents that support the Respondent's arguments, provide the names and/or sworn written statements of all witnesses that have knowledge of relevant information related to the proposed Debarment, identify any other specific information that supports the Respondent's arguments, and specify a desired remedy.

4. The Contractor may request a hearing to discuss the Notice Protest and, if such request is granted, may discuss only those issues raised in the Notice Protest unless the Director allows otherwise. If a hearing is held, the Department of Executive Administration shall have the burden

of establishing by a preponderance of the evidence that the grounds exist for an Order of Debarment.

5. The Director shall consider the Notice of Debarment, the Respondent's Notice Protest, and, if a hearing is held, the evidence presented at the hearing. The Director shall issue a final written decision and Order regarding whether the Contractor should be Debarred. If the Director issues an Order of Debarment, that Order shall state:

a. The contracting activities from which the Respondent is barred from participating;

b. The length of the Debarment; and

c. Findings and conclusions upon which the Debarment is based.

The Director's decision shall be the final administrative decision of the City.
(Ord. 121723 § 1, 2005.)

20.70.060 Delegation of authority to the Debarment Authority.

The Director shall have the authority to delegate any or all of his/her duties and/or responsibilities under this Chapter.
(Ord. 121723 § 1, 2005.)

Subtitle IV

Concessions(Reserved)

Subtitle V

Miscellaneous Provisions

Chapter 20.76

CONDEMNATION PROCEEDINGS

Sections:

Statutory Reference: For statutory provisions on eminent domain by cities, see RCW Ch. 8.12.

Subchapter I

Special Assessments for Condemnation of Land

20.76.010 Method of procedure.

Whenever the City Council shall provide for the payment of the whole or any portion of the cost and expense of the condemnation of land by the levy and collection of special assessments on property specially benefited, the proceedings therefor shall be in accordance with the laws of the state of Washington and the provisions of this subchapter.
(Ord. 75167 § 1, 1946: Ord. 54547 § 1, 1928.)

20.76.020 Acceptance of awards.

If the City Council shall accept the awards for any improvement, or if the time allowed by law for rejecting the same shall have expired, the Director of Executive Administration shall notify the Clerk of the Superior Court, the County Assessor and the City Attorney of such acceptance or such expiration of time for rejection.
(Ord. 120794 § 249, 2002: Ord. 116368 § 253, 1992: Ord. 54547 § 2, 1928.)

20.76.030 Modes of payment.

There shall be two (2) modes of payment for such portion of the cost and expense of any improvement payable by special assessment: "immediate payment" and "payment by bonds." The mode adopted shall be "immediate payment," except in cases where the City Council shall designate the mode of "payment by bonds."
(Ord. 54547 § 3, 1928.)

20.76.040 Mode of "payment by bonds."

In case the City Council shall provide for the payment of special assessments in any such proceeding by the mode of "payment by bonds," it shall specify the term of such bonds, the maximum rate of interest thereon, and shall provide that bonds of such improvement district shall be issued in an amount equal to the sum of the assessments levied for such local improvement, less the amount of such assessments paid in cash into the special fund created for such local improvement during the thirty (30) day period following the date of the first publication of the notice of collection of the Director of Executive Administration, and the bonds may be sold

and delivered, in such manner as the City Council may by ordinance or resolution direct.
(Ord. 120794 § 250, 2002: Ord. 116368 § 254, 1992: Ord. 54547 § 4, 1928.)

20.76.050 Sale of bonds.

A. When the mode of "payment by bonds" is adopted for any such improvement, such bonds may be sold and delivered either upon bids or at private sale, as provided in this section. When the sale of such bonds upon bids shall be authorized, the Finance Director shall advertise the same for sale in at least one (1) issue of the official newspaper of the City not less than ten (10) days prior to the date of sale. The advertisement shall state the approximate amount and date of the bonds, the number of years in which they shall mature and that bids shall be for bonds bearing no greater than eight percent (8%) interest on bonds issued to mature in twelve (12) years or less and bearing no greater than six percent (6%) interest on bonds issued to mature in twenty-two (22) years, and that no bid for less than par and accrued interest will be considered. The time and place when and where bids will be received shall also be stated in the advertisement. The Finance Director shall report all such bids to the City Council, who shall promptly act upon the same. The action of the City Council in accepting any such bids shall be by resolution. Bidders shall bid for such bonds upon forms prepared by the City with the approval of the City Attorney.

B. When the sale of such bonds at private sale shall be authorized, the City Council shall, in the ordinance or resolution authorizing such sale, specify the rate of interest which such bonds shall bear.
(Ord. 116368 § 255, 1992; Ord. 54547 § 5, 1928.)

20.76.060 Payment in installments.

Whenever the City shall have sold bonds of any such local improvement district, either upon bids or at private sale, as in this subchapter, the assessments for such improvement shall be payable in installments, and notice thereof shall be given, and the collection and enforcement thereof had as provided by law and this subchapter. In the case of sale upon bids, the City Clerk shall transmit to the Director of Finance a certified copy of the resolution accepting any such bid, and in the case of sale at private sale the Director of Finance shall certify that such bonds have been sold, pursuant to the resolution of the City Council directing such sale, and in either case the Director of Executive Administration thereupon shall proceed with the collection and enforcement of such assessments under the mode of "payment by bonds." As to assessments payable in ten (10) or less annual installments, the Director of Executive Administration shall annually extend the installments of principal and interest upon the unpaid balance as shown upon such roll, and as to assessments payable in twenty (20) annual installments, the Director of Executive Administration shall for the first ten (10) years annually extend the installments of interest upon such roll, and for the last ten (10) years the Director of Executive Administration shall annually extend the installments of principal and interest upon the unpaid balance as shown upon such roll.
(Ord. 120794 § 251, 2002: Ord. 117242 § 21, 1994: Ord. 54547 § 6, 1928.)

20.76.070 Certificates of purchase.

A. Two (2) years after the date of delinquency of an assessment payable by the mode of "immediate payment," or of an installment of an assessment payable by the mode of "payment by bonds," it shall be the duty of the Director of Executive Administration to proceed to sell the property described in any such local assessment roll for the amount of such delinquent assessment, or installment, together with the penalty and

interest accruing to date of sale, and for the costs of the sale; provided, it shall be the duty of the Director of Executive Administration in the case of the last installment of an assessment payable by the mode of "payment by bonds" to proceed with the sale provided for in this section at the expiration of twenty-one (21) months from the date of the delinquency of the last installment.

B. Certificates of purchase shall be executed and delivered by the Director of Executive Administration to the purchasers at such sale, and assessment deeds shall be executed and delivered by him to the persons thereunto entitled. All steps and proceedings required to be done in connection with such sale, certificates of purchase and assessment deeds shall be had and conducted according to law and this subchapter.

C. When assessments, or installments of assessments, have been delinquent the full period provided by law and ordinances of the City, before which such assessments or installments of assessments are subject to sale, the Director of Executive Administration shall certify that there are delinquent and unpaid assessments or installments thereof, giving the district number and installment thereof, if it be an installment roll, ordinance number under which it was created, street name, nature of the improvement and the date of delinquency.

D. The Director of Executive Administration shall sell all the property described upon the roll upon which assessments are levied to satisfy all such delinquent and unpaid assessments or installments thereof, together with interest, penalties and costs as provided by law.

E. Such warrant, issued for the purpose of making sale of the delinquent property, shall be deemed and taken as an execution against the property for the amount of the assessments or installments thereof, with interest, penalties and costs.
(Ord. 120794 § 252, 2002: Ord. 116368 § 256, 1992: Ord. 54547 § 7, 1928.)

20.76.080 Special fund.

The City Council shall, by ordinance, create a special fund for each such improvement district to be called "Local Improvement Fund, Condemnation Award, District No. _____," into which shall be placed the proceeds of the sale of bonds for such improvement, all sums paid on account of assessments levied for such improvement including all interest and penalty thereon, and all sums received from rents, profits and income from the property condemned by such proceeding, and from which shall be paid all warrants issued upon transcripts of judgments on awards and all bonds issued for such improvement. Provided, that if the fund is solvent at the time payment is ordered, the Director of Executive Administration in consultation with the Director of Finance may elect to make payment for the cost and expense of the improvement by check.
(Ord. 120794 § 253, 2002: Ord. 120114 § 39, 2000: Ord. 54547 § 8, 1928.)

20.76.090 Issuance of bonds.

At the expiration of thirty (30) days after the date of first publication of the Executive Administration Director's notice of any such assessments payable in installments, the Director of Executive Administration shall record the total amount of the assessment, the total amount paid to him or her to redeem any lots, tracts, or parcels of land, or other property, from the assessment levied thereon, and the total amount unpaid on such assessment; whereupon the Mayor and Director of Finance shall issue the bonds of such local improvement condemnation award district, in an amount equal to the amount remaining unpaid on the assessment roll as shown by such report. The bonds provided for in this section shall not be issued prior to twenty (20) days after

the expiration of the thirty (30) days abovementioned.
(Ord. 120794 § 254, 2002: Ord. 116368 § 257, 1992: Ord. 54547 § 9, 1928.)

20.76.098 Forms of bonds.

All bonds issued pursuant to this subchapter shall be on a form approved by the City Attorney. The bond prospectus shall state that the purchaser shall look only to the funds of the Condemnation Award District and the assessments levied thereby for payment of the principal of or interest on the bonds; and that the bonds are not a general obligation of The City of Seattle.
(Ord. 116368 § 258, 1992.)

20.76.110 Bond registry.

The City Finance Director shall keep in his or her office a register of all such bonds issued. He or she shall enter therein the Local Improvement Fund District number for which the same are issued, and the date, amount and number of each bond and the term of payment.
(Ord. 116368 § 259, 1992: Ord. 54547 § 11, 1928.)

20.76.120 Warrants or checks--When issued.

The Director of Finance and the Director of Executive Administration shall issue no warrants or checks for any condemnation awards, interest or costs prior to the acceptance of such awards by the City Council as provided for in Section 20.76.020, but such warrants or checks may be issued at any time thereafter.
(Ord. 120794 § 255, 2002: Ord. 120114 § 40, 2000: Ord. 116368 § 260, 1992: Ord. 54547 § 12, 1928.)

20.76.130 Payment of awards, interest and costs.

The proceeds of the sale of bonds issued therefor, together with the proceeds of the collection of special assessments therefor, made during the thirty (30) day period following the date of the first publication of the Director of Executive Administration's notice of collection, shall be applied by the Director of Executive Administration in payment of awards, interest and costs of any judgment in any eminent domain proceedings, and the redemption of any warrants issued in payment of any portion of such judgment. No priority of payment shall exist as between any such warrants and any portion of such judgment, but warrants shall be paid in the order of their issuance; provided, that warrants payable to the General Fund may be held until warrants issued for the payment of awards have been paid. If the applicable fund is solvent at the time payment is ordered, the Director of Executive Administration in consultation with the Director of Finance may elect to make payment by check.
(Ord. 120794 § 256, 2002: Ord. 120114 § 41, 2000: Ord. 116368 § 261, 1992: Ord. 54547 § 13, 1928.)

20.76.140 Items of cost.

In preparing the assessment roll to pay the cost and expense of any such condemnation improvement as provided in this subchapter, the Board of Eminent Domain Commissioners shall include the costs and expenses of the proceedings up to the time of the filing of the assessment roll, together with the probable further costs and expenses of the proceedings, including therein a charge against each description of property appearing upon any assessment roll in the following sum: In case of "immediate payment" of assessment, One Dollar ($1) per

description; in case of assessment payable in five (5) annual installments, the sum of Two Dollars ($2) per description; in case of assessment payable in ten (10) annual installments, the sum of Three Dollars and Fifty Cents ($3.50) per description; in case of assessment payable in fifteen (15) annual installments, Four Dollars and Thirty Cents ($4.30) per description; in case of assessment payable in twenty (20) annual installments of either principal or interest, Five Dollars ($5) per description, which is the charge for accounting, clerical labor, books and blanks used by the Director of Executive Administration; provided, however, that when any assessment payable in installments is paid in full within the thirty (30) day period fixed by law for the payment of assessments without interest, the Director of Executive Administration shall allow a rebate of the Director of Executive Administration's charge in this section provided in excess of One Dollar ($1) per description.
(Ord. 120794 § 257, 2002: Ord. 116368 § 262, 1992: Ord. 82591 § 1, 1953: Ord. 54547 § 14, 1928.)

Subchapter II

Miscellaneous Provisions

20.76.200 Payment of local improvement assessments against condemned property.

For the purpose of making payment of all local improvement assessments that may exist against any lot, tract or parcel of land which has been condemned for street or other purposes, the Director of Executive Administration, previous to the issuance of any warrant in payment for property condemned in any condemnation proceeding, shall determine the amount of all unpaid local improvement assessments that may exist against the property, and thereupon two (2) warrants in favor of the respondents shall be issued on the condemnation fund, one (1) warrant in the amount of the unpaid assessments which shall be endorsed to the General Fund by the respondent, and one (1) warrant for the amount of the award less the unpaid assessments. The Director of Executive Administration shall draw a warrant on the General Fund in favor of the local improvement district or districts entitled thereto for the amount of the unpaid assessments, the General Fund to be reimbursed for the amounts so paid out when sufficient moneys have been paid into the Condemnation Fund to meet the warrant thereon drawn in favor of the General Fund in payment of the assessments as set forth in this section. If the applicable fund is solvent at the time payment is ordered, the Director of Executive Administration may elect to make payment by check.
(Ord. 120794 § 258, 2002: Ord. 120114 § 42, 2000: Ord. 116368 § 263, 1992: Ord. 32967 § 1, 1914.)

20.76.210 Appropriation for payment of local improvement assessments against condemned property.

The sum of Ten Thousand Dollars ($10,000) is appropriated from the General Fund and set aside for the payment of local improvement assessments against property taken or damaged in condemnation proceedings as provided by Section 20.76.200.
(Ord. 32967 § 2, 1914.)

20.76.220 Offsetting compensation against damages--Permitted.

Whenever, in condemnation proceedings prosecuted by the City, compensation or damages, or both, are awarded to the owners of, and other parties interested in, any real property taken or damaged, and an assessment upon property benefited is made to pay the whole or any part of the compensation or damages, or both, awarded in such proceeding, and any person or persons to whom any such award of compensation or damages or both is made, also owns real property which is assessed in the same proceeding to pay the compensation and damages

awarded in the proceeding, such person or persons may offset, pro tanto, the amount of the compensation or damages, or both, awarded to such person or persons, against the assessment levied upon real property owned by such person or persons, in the manner provided in Sections 20.76.230, 20.76.240 and 20.76.250.
(Ord. 10725 § 1, 1904.)

20.76.230 Offsetting compensation against damages--Court certificate.

Any person or persons wishing to offset an award of compensation or damages, or both, against any assessment, as provided in Section 20.76.220, shall receipt upon the execution docket of the court in which such award is made, and make satisfaction, on the execution docket, of the amount so sought to be made an offset; and shall procure from the Clerk of the court and present to the Director of Executive Administration a certificate under the seal of the court specifying the amount of which satisfaction has been made on the execution docket, the date of such satisfaction, the number and a brief title of the proceeding, including the number of the ordinance under which the proceeding was prosecuted.
(Ord. 120794 § 259, 2002: Ord. 116368 § 264, 1992: Ord. 10725 § 2, 1904.)
Cases: The right of a property owner to offset compensation for lands taken in condemnation proceedings against an assessment for benefits to his other lands not taken is not waived by taking warrants for such assessments, even though such is not the procedure set out in Ordinance 10725, where no injury or expense results from taking out the warrants. State ex rel. Guye v. Seattle, 49 Wn. 41, 94 P. 656 (1908).

20.76.240 Offsetting compensation against damages--Cancellation of assessment roll.

The Director of Executive Administration, upon receipt of the certificate provided for in Section 20.76.230 is authorized and directed to cancel such assessment upon the assessment roll, to the amount specified in the certificate, making suitable notation thereof upon the assessment roll.
(Ord. 120794 § 260, 2002: Ord. 116368 § 265, 1992: Ord. 10725 § 3, 1904.)

20.76.250 Offsetting compensation against damages--Same proceeding.

Sections 20.76.220 through 20.76.240 shall not be construed as authorizing or permitting the offsetting of compensation or damages awarded in one condemnation proceeding against an assessment made or levied in another or different condemnation proceeding.
(Ord. 10725 § 4, 1904.)

20.76.260 Acceptance of condemnation fund warrants in payment of assessments.

Whenever an owner of property, assessed in a condemnation proceeding of the City, shall desire to make full payment of such assessment prior to date of sale of his or her property for the assessment, the Director of Executive Administration is authorized and directed to accept condemnation fund warrants, or parts thereof, in payment of such assessments levied to raise money for the benefit of the particular condemnation fund against or upon which said warrants were issued, and he or she shall treat all of such transactions as cash transactions making proper entry thereof upon City records.
(Ord. 120794 § 261, 2002: Ord. 116368 § 266, 1992: Ord. 23191 § 1, 1910.)

20.76.270 Acceptance of certificates of purchase for delinquent condemnation award assessments.

The Director of Executive Administration is authorized and directed to accept the redemption of

certificates of purchase issued for delinquent condemnation award assessments and installments thereof, and held in trust by the City for the condemnation award districts, where the last installment of the assessment is two (2) or more years delinquent, upon the payment of the principal of the certificates of purchase and interest thereon at the rate of eight percent (8%) per year from date of issuance to date of redemption.
(Ord. 120794 § 262, 2002: Ord. 116368 § 267, 1992: Ord. 63654 § 1, 1933.)

20.76.280 Segregation of condemnation assessments.

A. The Director of Executive Administration is authorized to collect and receive from any owner or owners of any subdivision or subdivisions of any lot, tract or parcel of land upon which a condemnation assessment has been, or may hereafter, be made, such portion of the assessment or assessments levied or to be levied against such lot, tract or parcel of land in the payment of the condemnation improvement as the City Director of Transportation shall certify to be chargeable to such subdivision or subdivisions in accordance with state law. Upon receipt of a certified copy of a resolution of the legislative authority authorizing such segregation the Director of Executive Administration shall enter such segregation, together with the amount of the bonded interest with respect thereto, upon the assessment records, and upon payment thereof, together with any penalties accruing according to law and any additional interest due with respect to such segregated portion, give a proper receipt; provided that this section shall not authorize the segregation of any assessment which has been delinquent for a period of two (2) years or more, or in any case where it appears that such property, when or as already divided according to the requested segregation, is not or would not be of sufficient value, or is not or would not be in such condition or title, as to provide adequate security for the payment of the total amount of the unpaid assessment, penalties, interest and costs charged or chargeable against the undivided whole. In such instances, upon a recommendation by the Director of Executive Administration, the City Council shall determine such question of fact. No segregation of any assessment on unplatted lands or large platted tracts shall be made until a plat thereof has been furnished the City Director of Transportation by the applicant, showing that the proposed segregation of property will conform to the system of streets as platted in adjacent territory. In all such instances, upon a recommendation by the City Director of Transportation, the City Council shall determine such question of fact.

B. Whenever, on account of the filing of a plat or replat or on account of a sale or contract to sell or other proper evidence of the change of ownership of a divided portion of any lot, tract or parcel of land assessed in such improvement district, it shall appear to be to the best interest of the City to segregate such assessments, the City Director of Transportation is authorized to make the proper certification as provided in this section, upon the written application of the owner, approved by the Director of Executive Administration, and confirmed by City Council resolution, and upon payment of the fee hereinafter provided. In all instances it shall be the duty of the City Director of Transportation to submit the necessary resolution for segregation for City Council approval.

C. A fee of Ten Dollars ($10.00) shall be charged for each tract of land for which a segregation is to be made together with a fee of Five Dollars ($5.00) per description for each description added to the assessment roll, to defray the reasonable costs of the reasonable engineering and clerical work involved, by such certificate of the City Director of Transportation, as approved by City Council resolution. Such fees shall be paid to the Director of Executive Administration and shall be deposited in the General Fund.
(Ord. 120794 § 263, 2002: Ord. 118409 § 143, 1996: Ord. 116368 § 268, 1992: Ord. 99040 § 1, 1970: Ord. 82590 § 1, 1953: Ord. 63678 § 1, 1933.)

Chapter 20.80

DISPOSITION OF FORECLOSED PROPERTY

Sections:

Statutory Reference: For statutory provisions on foreclosure of assessments and the disposition of property acquired, see RCW Chs. 35.50 and 35.53.

20.80.010 Contract for sale of foreclosed property.

The Director of Executive Administration is authorized to enter into contracts from time to time for and on behalf of the City for the sale, at not less than the appraised value thereof, determined as provided in Section 20.80.030, or at a price not less than enough to pay all taxes and assessments in full of any real property acquired by the City upon foreclosure of local improvement assessments and of any real property which the City may acquire from King County to protect the lien of any such assessments outstanding against such property, or any part thereof. Any such property shall be sold for cash, or on terms providing for the payment of one-fifth (1/5) of the purchase price in cash at the time of execution by the purchaser of the contract of sale and the remainder of such price to be paid in installments over a period not exceeding five (5) years, with interest on deferred payments at the rate of not less than five percent (5%) per year, or on such terms as may be approved by the City Council. No contract for the sale of any such property shall be valid or binding upon the City unless the same has first been authorized by the City Council by ordinance.
(Ord. 120794 § 264, 2002: Ord. 116368 § 269, 1992: Ord. 72834 § 1, 1943.)

20.80.020 Deposit on purchase of foreclosed property.

The Director of Executive Administration is authorized for and on behalf of the City to accept deposits of money amounting to not less than five percent (5%) of the purchase price of any property proposed to be sold as earnest money and to issue his or her receipt therefor. Any such deposit shall be placed in the Guaranty Deposit Fund, and if the depositor fails, through no fault of the City, to enter into a contract for the purchase of the property involved within ten (10) days after the Director of Executive Administration notifies him or her that a duly authorized or approved contract, executed on behalf of the City, is ready for execution on his or her part, such deposit shall be deemed forfeited and become the property of the City, and the amount thereof shall be transferred to the Local Improvement Guaranty Fund. If the depositor enters into such contract within the time mentioned in this section, the amount of the deposit shall be credited upon the purchase price agreed to be paid and shall be transferred to the Fund of the Local Improvement District levying the assessments, and if the district has been closed to the Local Improvement Guaranty Fund. If the City fails, by reason of any fault on its part, to make available for execution by the depositor such contract of sale within sixty (60) days after the receipt of the deposit, the depositor may, at his option, demand the return of his deposit.
(Ord. 120794 § 265, 2002; Ord. 116368 § 270, 1992; Ord. 72834 § 2, 1943.)

20.80.030 Authority to contract with professional realtors.

The Director of Executive Administration is authorized on behalf of the City to contract from time to time with professional realtors or real estate appraisers to ascertain for purposes of sale the value of City property acquired in the enforcement and for the protection of local improvement assessment liens, and in such connection the Director of Executive Administration is authorized to negotiate the terms of such employment, including the fees therefor, payment of which fees shall be charged to the appropriate item in the annual City budget.
(Ord. 120794 § 266, 2002; Ord. 116368 § 271, 1992; Ord. 94302 § 1, 1965; Ord. 72834 § 3, 1943.)

20.80.040 Payment for services of local real estate broker.

Whenever the City Council shall, by resolution, find that any real estate broker, duly licensed as required by the laws of the state, and whose principal place of business is located in Seattle, shall have negotiated the sale of any such property, such real estate broker shall be paid for such services a commission equal to five percent (5%) of the sale price of the property sold; but no payment shall be made on account of any such sale until at least one-fifth (1/5) of the total purchase price of the property shall have been paid to the City.
(Ord. 72834 § 4, 1943.)

20.80.050 Sale of foreclosed property--Purchase by City.

Whenever real property shall be offered for sale to satisfy an execution, judgment or decree of foreclosure in any action wherein the City is a party, in the absence of bidders or purchasers, or if the highest bid made by any person for such property be less than the amount of the judgment and costs recovered by the City in such action, then the properly authorized officer of the City may bid in and purchase such real property in the name of the City, for the use and benefit of the City, for a sum of money not to exceed the amount required to satisfy such execution, judgment or decree and the costs therein; and the amount so bid shall be applied to the satisfaction of the judgment in such action.
(Ord. 16300 § 1, 1907.)

20.80.060 Sale of foreclosed property--Authority of Corporation Counsel.

The City Attorney is authorized to bid in and to purchase in the name of the City, and for its use and benefit, all such real property as may be sold, as provided in Section 20.80.050, and to enter satisfaction of such judgments.
(Ord. 116368 § 272, 1992; Ord. 16300 § 2, 1907.)

Chapter 20.84

RELOCATION ASSISTANCE

Sections:

Statutory Reference: For statutory provisions on relocation assistance, see RCW Ch. 8.26.

20.84.010 Purpose.

The purposes of this chapter are: (a) to adopt the applicable state and federal laws and regulations for relocation assistance for those City Projects and Programs undertaken with State and Federal Financial Assistance; (b) to establish a uniform policy for the fair and equitable treatment of Persons displaced as a direct result of Programs or Projects undertaken with City Financial Assistance but no Federal or State Financial Assistance in order that such Persons do not suffer disproportionate injuries as a result of Programs designed for the benefit of the public as a whole; (c) to minimize the hardship of displacement on such Persons; and (d) to provide for the payment of relocation assistance similar to that required by the Revised Code of Washington (RCW) Chapter 8.26 and by 42 United States Code (U.S.C.) Chapter 4601 et. seq. to those Persons displaced as a direct result of Programs or Projects undertaken with City Financial Assistance but no State or Federal Financial Assistance.
(Ord. 121998 § 1, 2005; Ord. 104542 § 1, 1975.)

20.84.020 Applicability.

Whenever a Program or Project is undertaken with City Financial Assistance but no Federal or State Financial Assistance and that Program or Project causes there to be a "Displaced Person" as that term is defined in this chapter, the provisions of this chapter apply. For programs or projects undertaken with Federal or State Financial Assistance, applicable federal and state laws and regulations apply. Whenever a City program or project is undertaken with Federal Financial Assistance, the provisions of 42 U.S.C. § 4601 et seq. and the regulations adopted for that chapter at 49 CFR (Code of Federal Regulations) 24 et seq., all as may be amended or supplemented, apply. Whenever a City program or project is undertaken with State Financial Assistance but no Federal Financial Assistance, the provisions of RCW Chapter 8.26 et seq. and the regulations adopted for that chapter control. If the Project or Program receives only City Financial Assistance and no State or Federal Financial Assistance, the provisions of this chapter control. The provisions of the state and federal statutes and regulations may be looked to for guidance in interpreting this chapter.

(Ord. 121998 § 2, 2005; Ord. 104542 § 2, 1975.)

20.84.030 Definitions.

Except as otherwise provided in state and federal statutes and regulations applicable to projects or programs undertaken with State or Federal Financial Assistance, the following definitions apply for the purposes of this chapter:

A. Acquisition means obtaining fee simple title to real property or fee title subject to retention of a life estate or any right of use and occupancy for life, obtaining an interest in real property pursuant to a lease where the lease term, including options for extension, is 50 years or more, and obtaining permanent easements.

B. Agency means a non-City entity or a public corporation defined in Chapter 3.110 that undertakes a Program or Project.

C. Agency Head means the Director or highest administrative official of an Agency having authority over and responsibility for the applicable Program or Project and its costs.

D. Business means any lawful activity, except a Farm Operation, that is conducted:

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

2. Primarily for the sale of services to the public;

3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the Project; or

4. By a Nonprofit Organization that has established its nonprofit status under applicable federal or state law.

E. City Department Head means the Director or highest administrative official, e.g., the Director of Transportation, Superintendent of Parks and Recreation, Fleets and Facilities Director, or Director of Finance, among others, of the City Department having authority over and responsibility for the applicable Program or Project and its costs.

F. City Financial Assistance means a grant, loan or other direct financial contribution provided by the City of Seattle. The following are not considered City Financial Assistance for purposes of this chapter:

1. A grant, loan or other financial assistance provided by, through or administered by the City from state or federal funds or funds deriving from state or federal funds, such as program income;

2. A loan guarantee, credit enhancement or similar assurance provided by the City;

3. Insurance provided by the City;

4. Any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual; or

5. Other form of City Financial Assistance that is not a grant, loan or direct monetary contribution.

G. Comparable Replacement Dwelling means a Dwelling that is:

1. Decent, safe and sanitary as defined in subsection I of this section;

2. Functionally equivalent to the displacement Dwelling. A functionally equivalent Dwelling performs the same function and provides the same utility. While a Comparable Replacement Dwelling need not possess every feature of the displacement Dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a Dwelling may be used. In determining whether a replacement Dwelling is functionally equivalent to the displacement Dwelling, a Department may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement Dwelling. (For examples, see appendix A, 49 CFR § 24.2(a)(6));

3. In an area not subject to unreasonable adverse environmental conditions;

4. In a location generally not less desirable than the location of the displacement Dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the Displaced Person's place of employment;

5. 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;

6. Currently available to the Displaced Person on the private market, except that a Comparable Replacement Dwelling for a Person receiving government housing assistance before displacement may reflect similar government housing assistance, and any requirements of the government housing assistance program relating to the size of the replacement Dwelling apply; and

7. Within the financial means of the Displaced Person.

   a. A replacement Dwelling purchased by a homeowner in occupancy at the displacement Dwelling for at least 180 days prior to Initiation of Negotiations (a 180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, all increased Mortgage interest costs, and all incidental expenses described in Section 20.84.400, plus any additional amount required to be paid for Replacement Housing of Last Resort under Section 20.84.430.

   b. For a Tenant or Owner-occupant who actually and lawfully occupied the displacement

Dwelling for at least 90 days prior to the Initiation of Negotiations (a 90-day occupant), a Comparable Replacement Dwelling is considered to be within the Displaced Person's financial means if, after receiving rental assistance pursuant to Section 20.84.410, the Displaced Person's portion of the monthly rent plus average monthly Utility Costs for the replacement Dwelling do not exceed thirty percent (30%) of the Displaced Person's gross monthly Household Income from all sources.

c. For a Displaced Person who is not eligible to receive a replacement housing payment due to failure to meet the length of occupancy requirements contained in Sections 20.84.400 or 20.84.410, comparable replacement housing is considered to be within the Displaced Person's financial means if, for a period of 42 months, the Department pays that portion of the monthly housing costs for a replacement Dwelling that exceed thirty percent (30%) of the Displaced Person's gross monthly Household Income from all sources. Such payments must be paid under the provisions for Replacement Housing of Last Resort pursuant to Section 20.84.430.

H. 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 Department determines to be more equitable, a Business or Farm Operation:

1. Had average annual gross receipts of at least $5,000;

2. Had average annual net earnings of at least $1,000; or

3. Contributed at least 33 1/3% of the Owner's or operator's average annual gross income from all sources.

4. If the application of the above criteria creates an inequity or hardship in any given case, the Department may approve the use of other criteria it determines appropriate.

I. Decent, Safe, and Sanitary Dwelling means a Dwelling that meets the applicable standards in the Housing and Building Maintenance Code, Chapter 22.206, is adequate in size to accommodate the occupants, and, for a Displaced Person with a disability, is free of any barriers that would preclude reasonable ingress, egress, or use of the Dwelling by such Displaced Person.

J. Department means The City of Seattle or any of its subdivisions or instrumentalities, including without limitation, any City office, board, or commission, the City Council and any of its committees, and any public corporation defined in Chapter 3.110, that acquires real property, implements a Project, or conducts a Program (including any Program that provides funding for a Project), that directly causes a Person to become a Displaced Person as defined in this chapter. For purposes of a Project or Program that is not undertaken by a Department, the use of the term "Department" throughout this chapter means "Agency."

K. Displaced Person.

1. General. Except as provided in paragraph 2 of this definition, "Displaced Person" means a Person who, as a direct result of any of the following, permanently moves from real property or

permanently moves the Person's personal property from real property, and includes a Person who occupies the real property prior to its Acquisition but who does not meet the length of occupancy requirements in Sections 20.84.400 or 20.84.410:

a. A written Notice of Intent to Acquire the real property in whole or part for a Program or Project;

b. The Initiation of Negotiations for the purchase of the real property in whole or part for a Program or Project;

c. The Acquisition of such real property in whole or in part for a Program or Project;

d. A written notice requiring a Person to vacate real property for the purpose of rehabilitation or demolition of the improvements(s) as part of a Program or Project;

e. Written Notice of Intent to Acquire, or the Acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the Person conducts a Business or Farm Operation; or

f. A Voluntary Transaction by an Owner that results in Acquisition of the real property for such a Project or Program and that displaces a Tenant.

2. Persons not displaced. The following is a nonexclusive listing of Persons who do not qualify as Displaced Persons under this chapter:

a. A Person who moves before the Initiation of Negotiations, unless the Department determines that the Person was displaced as a direct result of a Program or Project;

b. A Person who initially enters into occupancy of the property after the date of its Acquisition for the Program or Project;

c. A Person who has occupied the property for the purpose of obtaining assistance under this chapter, as determined by the Department;

d. A Person whom the Department determines is not required to relocate permanently as a direct result of the Project or Program (See appendix A, 49 CFR §24.2(a)(9)(ii)(D); or

e. A Person whom the Department determines is not displaced as a direct result of a partial Acquisition;

f. A Person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a Program or Project. Such notice may only be issued if the Person has not moved and the Department agrees to reimburse the Person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;

g. A Person who is determined to be in unlawful occupancy or who has been evicted for cause under applicable law, as provided for in Section 20.84.115;

h. A Person who retains the right of use and occupancy of the real property for life following its Acquisition by the Department;

i. An Owner-occupant who moves as the direct result of a rehabilitation or demolition of the real property that was neither a part of nor related to the Program or Project;

j. An Owner-occupant who either voluntarily conveys or moves after voluntarily conveying his or her property, after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Department will not acquire the property (in such cases a Tenant may be a Displaced Person, and any resulting displacement is subject to the requirements of this chapter), and either:

(1) The Department does not have authority to acquire property by eminent domain and the Department informs the Owner of what it believes to be the market value of the property; or

(2) The Department has authority to acquire property by eminent domain, but:

(a) No specific site or property needs to be acquired, although the Department may limit its search for alternative sites to a general geographic area;

(b) The property to be acquired is not part of an intended, planned, or designated Project area where all, or substantially all, of the property within the area is to be acquired within specific time limits;

(c) The Department will not acquire the property if negotiations fail to result in an amicable agreement; and

(d) The Department informs the Owner of what it believes to be the market value of the property.

k. A Person who occupied nonresidential property pursuant to a lease or rental agreement with a fixed term, the term has expired, and the Person moves as a result of the expiration of the term of the lease or rental agreement.

L. Dwelling means the place of permanent or customary and usual residence of a Person, as determined by the Department according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multipurpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a Mobile Home; or any other fixed or installed residential unit other than a unit customarily used, and currently (although not necessarily immediately) capable of use, for transportation or recreational purposes.

M. Dwelling Site means a land area that is typical in size for similar Dwellings located in the same

neighborhood.

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

O. Federal Financial Assistance means a grant, loan, or other financial contribution provided by the United States (including program income), but does not include a federal loan guarantee, federal credit enhancement, federal insurance, or any interest reduction payment from the federal government to an individual in connection with the purchase and occupancy of a residence by that individual.

P. Household Income means total gross income received for a 12-month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a Business. It does not include income received or earned by dependent children and full time students under 18 years of age. (See Appendix A, 49 CFR §24.2(a)(14) for examples of exclusions to income.)

Q. Initiation of Negotiations. Unless otherwise specified in this chapter, Initiation of Negotiations means the following:

1. Whenever the displacement results from the Acquisition of the real property by a Department, Initiation of Negotiations means the date of delivery of the initial written offer by the Department to the Owner or the Owner's representative to purchase the real property for the Program or Project. However, if the Department issues a notice of its intent to acquire the real property, and a Person moves after that notice but before delivery of the initial written purchase offer, the Initiation of Negotiations means the date the Person moves from the property.

2. Whenever the displacement is caused by rehabilitation, demolition or Acquisition of the real property by a non-City entity for a Project or Program (and there is no Acquisition by a Department), the Initiation of Negotiations means the date of the notice to the Person that he or she will be displaced by the Program or Project or, if there is no notice, the date the Person actually moves from the property.

3. In the case of permanent relocation of a Tenant as a result of an Acquisition of the property by a Department for a Program or Project through a voluntary conveyance by an Owner-occupant as described in Section 20.84.030 K2j above, the Initiation of Negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such Tenants under this chapter, until there is a written agreement between the Department and the Owner to purchase the real property.

R. Mobile Home includes manufactured homes and recreational vehicles used as Dwellings.

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

T. Nonprofit Organization means an organization that is incorporated under the applicable laws of the State as a non-profit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. § 501 et seq.).

U. Notice of Intent to Acquire means a Department's written communication that is provided to a Person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of City Financial Assistance, which clearly sets forth that the Department intends to acquire the property. A Notice of Intent to Acquire establishes the eligibility for relocation assistance prior to the Initiation of Negotiations and/or prior to the commitment of City Financial Assistance.

V. Owner means a Person who purchases or holds any of the following interests in real property:

1. Fee title, a life estate, a land contract, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of Acquisition;

2. An interest in a cooperative housing project that includes the right to occupy a Dwelling;

3. A contract to purchase any of the interests or estates described in paragraphs 1 or 2 of this subsection, or

4. Any other interest, including a partial interest, which in the judgment of the Department warrants consideration as ownership.

W. Person means any individual, family, partnership, corporation, or association.

X. Program or Project means an activity or series of activities undertaken by or expected to be undertaken by a Department or with City Financial Assistance in any phase of the undertaking, and without any State or Federal Financial Assistance.

Y. Small Business means a Business with no more than 500 employees working at the site being acquired or displaced by a Program or Project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a Business for purposes of Section 20.84.320.

Z. State Financial Assistance means a grant, loan, or other financial contribution provided by the State of Washington, but does not include a State guarantee, State insurance, State credit enhancement or any interest reduction payment from the State to an individual in connection with the purchase and occupancy of a residence by that individual.

AA. Tenant means a Person who has the temporary use and occupancy of real property owned by another.

BB. Unlawful Occupant means a Person who has been ordered to move by a court of competent jurisdiction prior to the Initiation of Negotiations, who has been legally evicted, or who occupies property without right, title or payment of rent, with no legal rights to occupy a property under state law. A Department

may, at its discretion, consider such a Person to be in lawful occupancy.

CC. Utility Costs mean expenses for electricity, gas, other heating and cooking fuels, water and sewer.

DD. Voluntary Transaction means a donation, exchange, market sale, or other type of agreement entered into without compulsion.

(Ord. 121998 § 3, 2005; Ord. 120794 § 267, 2002; Ord. 120181 § 139, 2000; Ord. 118409 § 144, 1996; Ord. 118397 § 120, 1996; Ord. 115958 § 19, 1991; Ord. 109157 § 1, 1980; Ord. 104542 § 3, 1975.)

20.84.040 City Department Head--Authority.

The City Department Head with authority and responsibility for a Program or Project that may create a Displaced Person, is authorized, with respect to such Program or Project, to:

A. Implement this chapter and any federal, state, or local relocation assistance statute, law, ordinance, rule, regulation, or order applicable to each such program or project that is subject to the Department Head's authority;

B. Ascertain the eligibility for and amount of benefits to be paid each applicant;

C. Give all notices required or authorized to be provided by this chapter;

D. Maintain records (including records of delivery and service of notices) of the activities by or for the Department pertaining to relocation assistance and relocation assistance claims for each Program or Project under the Department Head's authority. The Department Head may delegate such authority to such Person as each City Department Head may authorize.

(Ord. 121998 § 4, 2005; Ord. 104542 § 4, 1975.)

20.84.055 No duplication of payments.

No Person shall receive any payment or assistance under this chapter if that Person receives a payment or assistance under Federal, State, local law or insurance proceeds that is determined by the Department to have the same purpose and effect as such payment under this chapter. A Department is prohibited from making a payment or providing assistance under this chapter that would duplicate a payment or assistance the Person receives under federal, state or other local law, or from insurance proceeds. If, absent this restriction, a Person would be eligible for a payment or assistance under both this chapter and Chapter 22.210, Tenant Relocation Assistance, the Person shall be provided the payments or assistance authorized by this chapter.

(Ord. 121998 § 5, 2005.)

20.84.065 Administration of jointly-funded Projects.

Whenever two or more City Departments provide City Financial Assistance to an entity other than a City Department to carry out functionally or geographically related activities for a Program or Project that will result in a Displaced Person, the City Departments shall by agreement designate the City Department Head for purposes of this chapter.

(Ord. 121998 § 6, 2005.)

20.84.075 Notices--General requirements.

Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling as determined by the Department. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help. Each notice required to be provided to a property Owner or occupant pursuant to this chapter shall either be personally served or sent simultaneously by certified or registered first-class mail, return receipt requested, and by regular first class mail. Proof of delivery or mailing shall be documented and kept in the relocation files.
(Ord. 121998 § 7, 2005.)

20.84.085 Relocation notices.

A. General information notice. As soon as feasible, a Person scheduled to be displaced shall be furnished with a general written description of the relocation program, which description does at least the following:

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

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

3. Informs the Person that the Person will not be required to move without at least 90 days' advance written notice, and informs any Person to be displaced from a Dwelling that the Person cannot be required to move permanently unless at least one Comparable Replacement Dwelling has been made available.

4. Describes the Person's right to appeal the Department's determination of a Person's eligibility for, or the amount of, any assistance under this chapter.

B. Relocation eligibility and Notice thereof. Eligibility for relocation assistance begins on the date of a Notice of Intent to Acquire, the Initiation of Negotiations for the occupied property, or the date of actual Acquisition, whichever occurs first. When eligibility begins, the Department shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

C. Ninety-day notice.

1. General. No lawful occupant shall be required to move unless the occupant has received at least 90 days advance written notice of the earliest date by which the occupant may be required to move.

2. Timing of notice. The Department may issue the notice 90 days before it expects the Person to be displaced or earlier.

3. Content of notice. The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a Comparable Replacement Dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a Dwelling is made available.

4. Urgent need. In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the Department determines that a 90-day notice is impracticable, such as when the Person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Department's determination shall be included in the applicable case file.

(Ord. 121998 § 8, 2005.)

20.84.095 Availability of Comparable Replacement Dwelling before displacement.

A. General. No Person to be displaced shall be required to move from his or her Dwelling unless at least one Comparable Replacement Dwelling has been made available to the Person. Where possible, three or more Comparable Replacement Dwellings shall be made available. A Comparable Replacement Dwelling will be considered to have been made available to a Person, if:

1. The Person is informed of its location;

2. The Person has sufficient time, based on then existing industry practice, to negotiate and enter into a purchase agreement or lease for the property; and

3. Subject to reasonable safeguards, the Person is assured of receiving the relocation assistance and acquisition payment to which the Person is entitled in sufficient time to complete the purchase or lease of the property.

B. Circumstances permitting waiver. The Department may grant a waiver of the requirement in subsection A where it is demonstrated that a Person must move because of:

1. A major disaster defined in 42 U.S.C. § 5122;

2. A presidentially declared national emergency; or

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

C. Basic conditions of emergency move. Whenever a Person to be displaced is required to relocate from the displacement Dwelling for a temporary period because of an emergency described in subsection B of

this section, the Department shall:

1. Take whatever steps are necessary to assure that the Person is temporarily relocated to a Decent, Safe, and Sanitary Dwelling;

2. Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and Utility Costs incurred in connection with the temporary relocation; and

3. Make available to the Displaced Person as soon as feasible, at least one Comparable Replacement Dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the Person moves from the temporarily-occupied Dwelling.)

(Ord. 121998 § 9, 2005.)

20.84.105 Relocation planning, advisory services, and coordination.

A. Relocation planning. During the early stages of development, Programs or Projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, Businesses, farms, and Nonprofit Organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate as determined by the Department, shall precede any action by a Department that will cause displacement, and should be scaled to the complexity and nature of the anticipated displacing activity, including an evaluation of Program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study that may include the following:

1. An estimate of the number of households to be displaced including information such as Owner/Tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and Persons with disabilities when applicable.

2. An estimate of the number of Comparable Replacement Dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of Comparable Replacement Dwellings is not expected to be available, the Department should consider housing of last resort actions.

3. An estimate of the number, type, and size of the Businesses, farms, and Nonprofit Organizations to be displaced and the approximate number of employees that may be affected.

4. An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the Businesses should be considered and addressed. Planning for displaced Businesses that are reasonably expected to involve complex or lengthy moving processes or Small Businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

5. Consideration of any special relocation advisory services that may be necessary and the agencies

that will provide them.

B. Relocation assistance advisory services.

1. General. The Department shall carry out a relocation assistance advisory program that offers the services described in subsection B2 of this section. If the Department determines that a Person occupying property adjacent to the real property acquired for the Program or Project is caused substantial economic injury because of such Acquisition, it may offer advisory services to such Person.

2. Services to be provided. The advisory program shall include such measures, facilities, and services as may be necessary or appropriate as determined by the Department, to:

a. Determine, for nonresidential (Businesses, farm and Nonprofit Organizations) displacement, the relocation needs and preferences of each Business, farm and Nonprofit Organization, to be displaced and explain the relocation payments and other assistance for which the Business may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each Business. At a minimum, interviews with displaced Business owners and operators should include the following items:

(1) The Business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the Business to accomplish the move.

(2) Determination of the need for outside specialists in accordance with Section 20.84.300 G.12 that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.

(3) For Businesses, an identification and resolution of personalty/realty issues. Reasonable efforts must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property.

(4) An estimate of the time required for the Business to vacate the site.

(5) An estimate of the anticipated difficulty in locating a replacement property.

(6) An identification of any advance relocation payments required for the move, and the Department's legal capacity to provide them.

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

(1) Provide current and continuing information on the availability, purchase prices, and rental costs of Comparable Replacement Dwellings, and explain that the Person cannot be required to move unless at least one Comparable Replacement Dwelling is made available.

(2) As soon as feasible, the Department shall inform the Person in writing of the specific Comparable Replacement Dwelling, the price or rent used for establishing the upper limit of the replacement housing payment, and the basis for the determination, so that the Person is aware of the maximum replacement housing payment for which the Person may qualify.

(3) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. If such an inspection is not made, the Department shall notify the Person to be displaced that a replacement housing payment may not be made unless the replacement Dwelling is subsequently inspected and determined to be Decent, Safe, and Sanitary.

(4) Whenever possible, minority Persons shall be given reasonable opportunities to relocate to Decent, Safe, and Sanitary replacement Dwellings that are not located in an area of minority concentration and that are within their financial means. This does not require a Department to provide a Person a larger payment than is necessary to enable a Person to relocate to a Comparable Replacement Dwelling.

(5) The Department shall offer all Persons, transportation to inspect housing to which they are referred.

(6) Any Displaced Person that may be eligible for government housing assistance at the replacement Dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement Dwelling, as well as of the long term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.

c. Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any Person displaced from a Business or Farm Operation to obtain and become established in a suitable replacement location.

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

e. Supply Persons to be displaced with appropriate information, as determined by the Department, concerning federal, state and local housing programs, disaster loan and other programs administered by the Small Business Administration, and other federal, state and local programs offering assistance to Displaced Persons, as well as technical help to

Persons applying for such assistance.

C. Coordination of relocation activities. Relocation activities shall be coordinated with other Project work so that, to the extent feasible, Persons displaced receive consistent treatment and duplication of functions is minimized.

D. Advisory services for Persons not displaced. Any Person who occupies property acquired by a Department, when such occupancy began subsequent to the Acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a Program or Project, shall be eligible for advisory services, as determined by the Department, even if not eligible for relocation assistance.
(Ord. 121998 § 10, 2005.)

20.84.115 Eviction for cause.

A. Evictions must conform to applicable state and local law. Any Person who lawfully occupies the real property on the date of the Initiation of Negotiations is presumed to be entitled to relocation payments and other assistance set forth in this chapter unless the Department determines that the Person is evicted after the date of Initiation of Negotiations: 1) for cause, 2) pursuant to an eviction notice received by the Person prior to the Initiation of Negotiations, or 3) because a non-residential term lease has ended.

B. In any case an eviction may not be undertaken for the purpose of evading the obligation to make available the payments and other assistance provided for by this chapter.

C. For purposes of determining eligibility for relocation payments, the date of displacement is the date the Person moves, or the date a Comparable Replacement Dwelling is made available, whichever is later. This section applies only to Persons who would otherwise have been displaced by the Program or Project.
(Ord. 121998 § 11, 2005.)

20.84.205 General requirements--Claims for relocation payments.

A. Documentation. Any claim for a relocation payment shall be supported by such documentation as may be reasonably required by the Department to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A Displaced Person must be provided reasonable assistance necessary to complete and file any required claim for payment.

B. Expeditious payments. The Department shall review claims in an expeditious manner. The claimant shall be promptly notified of any additional documentation required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

C. Advance payments. If a Person demonstrates need for an advance relocation payment in order to avoid or reduce a hardship, the Department shall issue the payment, subject to such safeguards as are appropriate as determined by the Department to ensure that the objective of the payment is accomplished.

D. Time for filing.

1. All claims for a relocation payment shall be filed with the Department within 18 months after:

a. For Tenants, the date of displacement;

b. For Owners, the date of displacement or the date of the final payment for the Acquisition of the real property, whichever is later.

2. The Department may waive this time period for good cause.

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

F. No waiver of relocation assistance. A Department shall not propose or request that a Displaced Person waive a right or entitlement to relocation assistance and benefits provided by this chapter.

G. Expenditure of payments. Payments provided pursuant to this chapter shall not be considered to constitute City Financial Assistance and do not cause the Person receiving them to be considered a City Project or Program. Accordingly, the requirements of this chapter do not apply to the expenditure of relocation assistance payments by, or for, a Displaced Person.
(Ord. 121998 § 12, 2005.)

20.84.215 Relocation payments not considered income.

A. As provided by state and federal law, no relocation payment received by a Displaced Person as a result of displacement for a program or project with Federal or State Financial Assistance shall be considered income for the purpose of any income tax or any tax imposed under Title 82 RCW or for purposes of determining eligibility or the extent of eligibility of any Person for assistance under state law, the Social Security Act or any other Federal law, except for any Federal law providing low-income housing assistance. Such payments shall not be deducted from any amount to which any recipient would otherwise be entitled under Title 74 RCW.

B. A relocation assistance payment received pursuant to this chapter by a Displaced Person as a result of displacement for a Program or Project shall not be considered income to the extent allowed by state and federal law, and shall not be considered income for purposes of determining eligibility for or the extent of eligibility of any Person for City programs.
(Ord. 121998 § 13, 2005.)

20.84.225 Hearing Examiner appeals.

A. Actions that may be appealed. Whenever a Person believes a Department has failed to properly consider the Person's application for assistance under this chapter or when a Person believes that an Agency has improperly decided an appeal under Section 20.84.640, including but not limited to the Person's eligibility for, the method of determination of, or the amount of a relocation payment required under this chapter, the aggrieved Person may file a written appeal with the Hearing Examiner. (For appealing Agency decisions, see

Section 20.84.640.)

B. Filing of Appeals.

1. Time limit for initiating appeal. A notice of appeal shall be filed with the Hearing Examiner, with a copy to the Department Head, and any filing fee established by the Hearing Examiner paid, within sixty (60) days following receipt of written notice of the Department's determination.

2. Form of Appeal. The notice of appeal must contain a brief statement of the issue(s) on appeal, the specific objections to the decision being appealed along with supporting facts and documentation, the relief sought, the reason(s) why the Person appealing believes he or she is aggrieved by the Department's decision, and the reason(s) why the Person appealing believes the appeal should be granted. The notice of appeal must list the address of the property involved, the name of the Project or Program if known, the Department making the decision being appealed, the name of the appellant, and the signature, address, phone number, and fax or e-mail address if available, of the Person appealing or the Person's authorized representative. The Hearing Examiner may dismiss any appeal that fails to comply with these requirements after providing the Person a written notice requesting compliance within ten (10) days. Except as provided above, the Hearing Examiner shall consider a written appeal regardless of form.

C. Right to representation. A Person may be represented by legal counsel or other representative in connection with an appeal, but solely at the Person's own expense.

D. Review of files by Person making appeal. The Department shall permit a Person, upon request, to inspect and copy all materials pertinent to his or her appeal, except materials determined to be exempt from disclosure under applicable law, but may impose reasonable copying charges and other reasonable conditions in accordance with applicable law.

E. Hearing Procedures. The appeal and hearing process shall be conducted in accordance with the Hearing Examiner Rules of Practice and Procedure for contested cases.

F. Standard of Review. The Person appealing has the burden of proving by a preponderance of the evidence that the Department's decision was incorrect.
(Ord. 121998 § 14, 2005.)

20.84.235 Judicial review.

Judicial review of a Hearing Examiner decision issued pursuant to this chapter must be commenced within thirty (30) days after entry of the Hearing Examiner's decision and pursued in accordance with the requirements of the Administrative Procedures Act, RCW Chapter 34.05.
(Ord. 121998 § 15, 2005.)

20.84.300 Payment for actual reasonable moving and related expenses.

A. General.

1. Any Owner-occupant or Tenant of a Dwelling who qualifies as a Displaced Person under this chapter and who moves from a Dwelling (including a Mobile Home) or who moves from a Business, farm or Nonprofit Organization is entitled to payment of his or her actual moving and related expenses, as the Department determines to be reasonable and necessary.

A non-occupant Owner of a rented Mobile Home is eligible for actual cost reimbursement to relocate the Mobile Home. If a Mobile homeowner-occupant obtains a replacement housing payment under one of the circumstances described in Section 20.84.510 A3, the homeowner-occupant is not eligible for payment for moving the Mobile Home, but may be eligible for a payment for moving personal property from the Mobile Home.

B. Moves from a Dwelling. A Displaced Person's actual, reasonable and necessary moving expenses for moving personal property from a Dwelling may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a Dwelling include the expenses described in subsections 20.84.300 G1--G7 of this section. Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section.)

1. Commercial move--moves performed by a professional mover.

2. Self-move--moves that may be performed by the Displaced Person in one or a combination of the following methods:

a. Fixed Residential Moving Cost Schedule as defined in Section 20.84.310.

b. Actual cost move. Supported by receipts for payments made for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting equipment but not exceed the cost paid by a commercial mover.

C. Moves from a Mobile Home. A Displaced Person's actual, reasonable and necessary moving expenses for moving personal property from a Mobile Home may be determined based on the cost of one, or a combination of the following methods: (Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section. Eligible expenses for moves from a Mobile Home include those expenses described in subsections 20.84.300 G1--G7 of this section. In addition to the items in subsection A of this section, the Owner-occupant of a Mobile Home that is moved and used as the Person's replacement Dwelling, is also eligible for the moving expenses described in subsections 20.84.300 G8--G10 of this section.)

1. Commercial move--moves performed by a professional mover.

2. Self-move--moves that may be performed by the Displaced Person in one or a combination of the following methods:

a. Fixed Residential Moving Cost Schedule as defined in Section 20.84.310.

b. Actual cost move. Supported by receipts for payments made for labor and equipment.

Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting equipment but not exceed the cost paid by a commercial mover.

D. Moves from a Business, farm or Nonprofit Organization. Personal property as determined by an inventory from a Business, farm or Nonprofit Organization may be moved by one or a combination of the following methods: (Eligible expenses for moves from a Business, farm or Nonprofit Organization include those expenses described in subsections 20.84.300 G1--G7 and G11--G18 of this section.)

1. Commercial move. Based on the lower of two bids or estimates prepared by a commercial mover. At the Department's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

2. Self-move. A self-move payment may be based on one or a combination of the following:

a. The lower of two bids or estimates prepared by a commercial mover or qualified Department staff person. At the Department's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or

b. Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

E. Personal property only. Eligible expenses for a Person who is required to move personal property from real property but is not required to move from a Dwelling (including a Mobile Home), Business, farm or Nonprofit Organization include those expenses described in subsections 20.84.300 G1--G7 and G18 of this section.

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

1. The depreciated reproduction cost of the sign, as determined by the Department, less the proceeds from its sale; or

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

G. Eligible actual moving expenses.

1. Transportation of the Displaced Person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Department determines that relocation beyond 50 miles is justified.

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

3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household

appliances, and other personal property. For Businesses, farms or Nonprofit Organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes the modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.

4. Storage of the personal property for a period not to exceed 12 months, unless the Department determines that a longer period is necessary.

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

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

7. Other moving-related expenses that are not listed as ineligible under Section 20.84.300 H, as the Department determines to be reasonable and necessary.

8. The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a Mobile Home which were not acquired, such as porches, skirting, and awnings, anchoring of the unit, and utility "hookup" charges.

9. The reasonable cost of repairs and/or modifications so that a Mobile Home can be moved and/or made Decent, Safe, and Sanitary.

10. The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the Person is displaced from a mobile home park or the Department determines that payment of the fee is necessary to effect relocation.

11. Any license, permit, fees or certification required of the Displaced Person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification.

12. Professional services as the Department determines to be actual, reasonable and necessary for:

    a. Planning the move of the personal property;

    b. Moving the personal property;

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

13. Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

14. Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the Business or Farm Operation. The payment shall consist of the lesser of:

    a. The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Department determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the market value shall be based on the cost of the goods to the Business, not the potential selling prices.); or

    b. The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting apiece of equipment if the equipment is in storage or not being used at the acquired site. If the Business or Farm Operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.

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

16. Purchase of substitute personal property. If an item of personal property, which is used as part of a Business or Farm Operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the Displaced Person is entitled to payment of the lesser of:

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

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

17. Searching for a replacement location. A Business, or Farm Operation is entitled to reimbursement for actual expenses, not to exceed $2,500, as the Department determines to be reasonable, which are incurred in searching for a replacement location, including:

    a. Transportation;

    b. Meals and lodging away from home;

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

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

    e. Time spent in obtaining permits and attending zoning hearings based on reasonable salary or earnings; and

    f. Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

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

H. Ineligible moving and related expenses. A Displaced Person is not entitled to payment for:

1. The cost of moving any structure or other real property improvement in which the Displaced Person reserved ownership. (However, this does not preclude the computation under Section 20.84.400 C).

2. Interest on a loan to cover moving expenses;

3. Loss of goodwill;

4. Loss of profits;

5. Loss of trained employees;

6. Any additional operating expenses of a Business or Farm Operation incurred because of operating in a new location except as provided in Section 20.84.320 A9.

7. Personal injury;

8. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant in an appeal;

9. Expenses for searching for a replacement Dwelling;

10. Physical changes to the real property at the replacement location of a Business or Farm Operation except as provided in Section 20.84.300 G3 and Section 20.84.320 A.

11. Costs for storage of personal property on real property already owned or leased by the Displaced Person; or

12. Refundable security and utility deposits.

I. Notification and inspection (nonresidential). The Department shall inform the Displaced Person, in writing, of the requirements of this section as soon as possible after the Initiation of Negotiations. This information may be included in the relocation information provided the Displaced Person as set forth in Section 20.84.085. To be eligible for payments under this section the Displaced Person must:

1. Provide the Department reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, the Department may waive this notice requirement after documenting its file accordingly.

2. Permit the Department to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

J. Transfer of ownership (nonresidential). Upon request and in accordance with applicable law, the claimant shall transfer to the Department ownership of any personal property that has not been moved, sold, or traded in.
(Ord. 121998 § 16, 2005.)

20.84.310 Fixed payment for moving expenses--Residential moves.

Any Person displaced from a Dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed payment as an alternative to a payment for actual moving and related expenses under Section 20.84.300. This payment shall be determined according to the Fixed Residential Moving Cost Schedule approved by the Federal Highway Administration and published in the Federal Register on a periodic basis. The payment to a Person with minimal possessions who is occupying a dormitory style room or a Person whose residential move is performed by an agency at no cost to the Person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule.
(Ord. 121998 § 17, 2005.)

20.84.320 Reestablishment expenses--Nonresidential moves.

In addition to the payments available under Section 20.84.300 for actual reasonable moving and related expenses, a Small Business, farm or Nonprofit Organization is entitled to receive a payment, not to exceed $50,000, for expenses actually incurred in relocating and reestablishing such Small Business, farm or Nonprofit Organization at a replacement site.

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

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

2. Modifications to the replacement property to accommodate the Business operation or make replacement structures suitable for conducting the Business.

3. Construction and installation costs for exterior signing to advertise the Business.

4. Connection to available nearby utilities from the right of way to improvements at the replacement site.

5. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint,

paneling, or carpeting.

6. Advertisement of replacement location.

7. Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the Displaced Person's Business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Department a reasonable pre-approved hourly rate may be established.

8. Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by the Department.

9. Estimated increased costs of operation during the first 2 years at the replacement site for such items as the following, provided that the replacement site is functionally similar to the displacement site and is not merely an improvement in space at the expense of the City:

a. Lease or rental charges,

b. Personal or real property taxes,

c. Insurance premiums, and

d. Utility charges, excluding impact fees.

10. Other items that the Department considers essential to the reestablishment of the Business.

B. Ineligible expenses. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

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

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

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

4. Payment to a part-time Business in the home that does not Contribute Materially to the Household Income.

5. Interior or exterior renovations at the replacement site that are solely for aesthetic purposes, except those listed above in subsection A4.

(Ord. 121998 § 18, 2005.)

20.84.330 Fixed payment for moving expenses--Nonresidential moves.

A. Business. A displaced Business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses provided by Sections 20.84.300 and 20.84.320. The payment, except for payment to a Nonprofit Organization, shall equal the average annual net earnings of the Business, computed in accordance with subsection E of this section, but not less than $1,000 nor more than $20,000. The displaced Business is eligible for the payment if the Department determines that:

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

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

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

4. The Business is not operated at a displacement Dwelling solely for the purpose of renting such Dwelling to others;

5. The Business is not operated at the displacement site solely for the purpose of renting the site to others; and

6. The Business Contributed Materially to the income of the Displaced Person.

B. Determining the number of Businesses. In determining whether two or more displaced legal entities constitute a single Business that is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

1. The same premises and equipment are shared;

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

3. The entities are held out to the public, and to those customarily dealing with them, as one Business; and

4. The same Person or closely related Persons own, control, or manage the affairs of the entities.

C. Farm Operation. A displaced Farm Operation may choose a fixed payment in lieu of a payment for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with subsection E of this section, but not less than $1,000 nor more than $20,000. In the case of a partial Acquisition of land that was a Farm Operation before the Acquisition, the fixed payment shall be made only if the Department determines that:

1. The Acquisition of part of the land caused the operator to be displaced from the Farm Operation on the remaining land; or

2. The partial Acquisition caused a substantial change in the nature of the Farm Operation.

D. Nonprofit Organization. A displaced Nonprofit Organization may choose a fixed payment of $1,000 to $20,000 in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Department determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A Nonprofit Organization is assumed to meet this test unless the Department demonstrates otherwise. Any payment in excess of $1,000 must be supported with financial statements for the two 12-month periods prior to the Acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses. (See Appendix A, 49 CFR § 24.305(d).)

E. Average annual net earnings of a Business or Farm Operation. The average annual net earnings of a Business or Farm Operation are one-half of its net earnings before federal, state, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the Business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Department determines it to be more equitable. Net earnings include any compensation obtained from the Business or Farm Operation by its Owner, the Owner's spouse, and dependents. The Displaced Person shall furnish the Department proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence the Department determines is satisfactory.
(Ord. 121998 § 19, 2005.)

20.84.400 Replacement housing payment for 180-day homeowner-occupants.

A. Eligibility. A Displaced Person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the Person:

1. Has actually owned and occupied the displacement Dwelling for not less than the 180 days immediately prior to the Initiation of Negotiations; and

2. Purchases and occupies a Decent, Safe, and Sanitary replacement Dwelling within one year after the later of the following dates (except that the Department may extend such one year period for good cause):

   a. The date the Displaced Person receives final payment for the displacement Dwelling or, in the case of condemnation, the date the required amount of just compensation is deposited in the court, or

   b. The date the obligation to make a Comparable Replacement Dwelling available is met.

B. Amount of payment. The replacement housing payment for an eligible 180-day

homeowner-occupant may not exceed $22,500. The payment is limited to the amount necessary to relocate to a Comparable Replacement Dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement Dwelling, or the date a Comparable Replacement Dwelling is made available to such Person, whichever is later. The payment shall be the sum of:

1. The amount by which the cost of a replacement Dwelling exceeds the acquisition cost of the displacement Dwelling (price differential), determined in accordance with subsection C of this section; and

2. The increased interest costs and other debt service costs that are incurred in connection with the Mortgage(s) or other purchase loan on the replacement Dwelling, determined in accordance with subsection D of this section; and

3. The necessary and reasonable expenses incidental to the purchase of the replacement Dwelling, determined in accordance with subsection E of this section.

C. Price differential.

1. Basic computation. The price differential to be paid under subsection B1 of this section is the amount that must be added to the acquisition cost of the displacement Dwelling and site to provide a total amount equal to the lesser of:

   a. The reasonable cost of a Comparable Replacement Dwelling determined in accordance with Section 20.84.420; or

   b. The purchase price of the Decent, Safe, and Sanitary replacement Dwelling actually purchased and occupied by the Displaced Person.

2. Owner retention of displacement Dwelling. If the Owner retains ownership of his or her Dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement Dwelling shall be the sum of:

   a. The cost of moving and restoring the Dwelling to a condition comparable to that prior to the move; and

   b. The cost of making the unit a Decent, Safe, and Sanitary replacement Dwelling; and

   c. The current market value for residential use of the replacement site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

   d. The retention value of the Dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

D. Increased Mortgage interest costs. The Department shall determine the factors to be used in computing the amount to be paid to a Displaced Person under subsection B2 of this section. The payment for

increased Mortgage interest cost shall be the amount that will reduce the balance on a new purchase loan or Mortgage to an amount that could be amortized with the same monthly payment for principal and interest as that for the Mortgage(s) on the displacement Dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide Mortgages that were valid liens on the displacement Dwelling for at least 180 days prior to the Initiation of Negotiations. Subsections D1 through D5 of this section apply to the computation of the increased Mortgage interest cost payment, which payment shall be contingent upon a Mortgage or other purchase loan being placed on the replacement Dwelling.

1. The payment shall be based on the unpaid Mortgage balance(s) on the displacement Dwelling; however, in the event the Person obtains a smaller Mortgage or purchase loan than the Mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. In the case of a home equity loan the unpaid balance is the balance that existed 180 days prior to the Initiation of Negotiations or the balance on the date of Acquisition, whichever is less.

2. The payment shall be based on the remaining term of the Mortgage(s) on the displacement Dwelling or the term of the new Mortgage or purchase loan, whichever is shorter.

3. The interest rate on the new Mortgage or purchase loan used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional Mortgages currently charged by Mortgage lending institutions in the area in which the replacement Dwelling is located.

4. Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

    a. They are not paid as incidental expenses;

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

    c. The Department determines them to be necessary; and

    d. The computation of such points and fees is based on the unpaid Mortgage balance on the displacement Dwelling, less the amount determined for the reduction of such Mortgage balance under this section.

5. The Displaced Person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the Person's current Mortgage(s) are known. The payment shall be made available at or near the time of closing on the replacement Dwelling in order to reduce the new Mortgage or purchase loan as intended.

E. Incidental expenses. The incidental expenses to be paid under subsection B3 of this section or for downpayment assistance under Section 20.84.410 C are those necessary and reasonable costs actually incurred by the Displaced Person incident to the purchase of a replacement Dwelling, and customarily paid by the buyer, including the following costs, but limited to the lesser of the amount actually paid or the amount that would

have been paid based on the cost of a Comparable Replacement Dwelling:

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

2. Lender, FHA, or VA application and appraisal fees;

3. Loan origination or assumption fees that do not represent prepaid interest;

4. Professional home inspection, certification of structural soundness and termite inspection;

5. Credit report;

6. Owner's and Mortgagee's evidence of title, e.g., title insurance, not to exceed the costs for a Comparable Replacement Dwelling;

7. Escrow agent's fee;

8. State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a Comparable Replacement Dwelling); and

9. Such other costs as the Department determines to be incidental to the purchase.

F. Rental assistance payment for 180-day homeowner. A 180-day homeowner-occupant who could be eligible for a replacement housing payment under subsection A of this section but elects to rent a replacement Dwelling, is eligible for a rental assistance payment not to exceed $5,250, computed and disbursed in accordance with Section 20.84.410.
(Ord. 121998 § 20, 2005.)

20.84.410 Replacement housing payment for 90-day occupants.

A. Eligibility. A Tenant or Owner-occupant displaced from a Dwelling is entitled to a payment not to exceed $5,250 for rental assistance, computed in accordance with subsection B of this section, or down payment assistance, computed in accordance with subsection C of this section, if such Displaced Person:

1. Has actually and lawfully occupied the displacement Dwelling for at least 90 days immediately prior to the Initiation of Negotiations; and

2. Has rented, or purchased, and occupied a Decent, Safe, and Sanitary replacement Dwelling within 1 year (unless the Department extends this period for good cause) after:

   a. For a Tenant, the date he or she moves from the displacement Dwelling, or

   b. For an Owner-occupant, the later of:

      (1) The date the Owner receives final payment for the displacement Dwelling, or in

the case of condemnation, the date the required amount is deposited with the court; or

(2) The date the Owner moves from the displacement Dwelling.

B. Rental assistance payment.

1. Amount of payment. An eligible Displaced Person who rents a replacement Dwelling is entitled to a payment not to exceed $5,250 for rental assistance. Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement Dwelling from the lesser of:

a. The monthly rent and estimated average monthly cost of utilities for a Comparable Replacement Dwelling; or

b. The monthly rent and estimated average monthly cost of utilities for the Decent, Safe, and Sanitary replacement Dwelling actually occupied by the Displaced Person.

2. Base monthly rental for displacement Dwelling. The base monthly rental for the displacement Dwelling is the lesser of:

a. The average monthly cost for rent and utilities at the displacement Dwelling for a reasonable period prior to displacement, as determined by the Department. (For an Owner-occupant, use the market rent for the displacement Dwelling. For a Tenant who paid below market rent for the displacement Dwelling, use the market rent, unless its use would result in a hardship because of the Person's income or other circumstances); or

b. Thirty (30) percent of the Displaced Person's average monthly gross Household Income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 programs. The base monthly rental shall be established solely on the criteria in subsection B2a of this section for Persons with income exceeding the survey's "low income" limits, for Persons refusing to provide appropriate evidence of income, as determined by the Department, and for Persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the Person demonstrates otherwise; or

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

3. Manner of disbursement. A rental assistance payment may, at the Department's discretion, be disbursed in either a lump sum or in installments. However, except as limited by Section 20.84.420 F providing for payments after death, the full amount vests immediately, whether or not there is any later change in the Person's income or rent, or in the condition or location of the Person's housing.

C. Down payment assistance payment.

1. Amount of payment. An eligible Displaced Person who purchases a replacement Dwelling is entitled to a down payment assistance payment in the amount the Person would receive under subsection B of this section if the Person rented a Comparable Replacement Dwelling. At the discretion of the Department, a down payment assistance payment that is less than $5,250 may be increased to any amount not to exceed $5,250. However, the payment to a displaced homeowner shall not exceed the amount the Owner would receive under Section 20.84.400 if he or she met the 180-day occupancy requirement. If the Department elects to provide the maximum payment of $5,250 as a downpayment, the Department shall exercise this discretion in a uniform and consistent manner, so that eligible Displaced Persons in like circumstances are treated equally. A Displaced Person eligible to receive a payment as a 180-day Owner-occupant under Section 20.84.400 is not eligible for this payment.

2. Application of payment. The full amount of the replacement housing payment for down payment assistance must be applied to the purchase price of the replacement Dwelling and related incidental expenses.

(Ord. 121998 § 21, 2005.)

20.84.420 Additional rules governing replacement housing payments.

A. Determining cost of Comparable Replacement Dwelling. The upper limit of a replacement housing payment shall be based on the cost of a Comparable Replacement Dwelling.

1. If available, at least three Comparable Replacement Dwellings shall be examined and the payment computed on the basis of the Dwelling most nearly representative of, and equal to, or better than, the displacement Dwelling. An adjustment shall be made to the asking price of any Dwelling, to the extent justified by local market data. An obviously overpriced Dwelling may be ignored.

2. If the site of the Comparable Replacement Dwelling lacks a major exterior attribute of the displacement Dwelling Site, (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement Dwelling for purposes of computing the replacement housing payment.

3. If the Acquisition of a portion of a typical residential property causes the displacement of the Owner from the Dwelling and the remainder is a buildable residential lot, the Department may offer to purchase the entire property. If the Owner refuses to sell the remainder to the Department, the market value of the remainder may be added to the acquisition cost of the displacement Dwelling for purposes of computing the replacement housing payment.

4. To the extent feasible, Comparable Replacement Dwellings shall be selected from the neighborhood in which the displacement Dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

5. Multiple occupants of one displacement Dwelling. If two or more occupants of the displacement Dwelling move to separate replacement Dwellings, each occupant is entitled to a reasonable prorated share, determined by the Department, of any relocation payments that would have been made if the occupants moved together to a Comparable Replacement Dwelling. However, if the Department determines that two or more occupants maintained separate households within the same Dwelling, such occupants have separate entitlements to relocation payments.

6. Deductions from relocation payments. A Department shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a Displaced Person is otherwise entitled. Where such a deduction would not prevent the Displaced Person from obtaining a Comparable Replacement Dwelling, a Department may deduct from relocation payments any rent that the Displaced Person owes the Department. The Department shall not withhold any part of a relocation payment to a Displaced Person to satisfy an obligation to any other creditor.

7. Mixed-use and multifamily properties. If the Displacement Dwelling was part of a property that contained another Dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment that is actually attributable to the displacement Dwelling shall be considered the acquisition cost when computing the replacement housing payment.

B. Inspection of replacement Dwelling. Before making a replacement housing payment or releasing the initial payment from escrow, the Department or its designated representative shall inspect the replacement Dwelling and determine whether it is a Decent, Safe, and Sanitary Dwelling.

C. Purchase of replacement Dwelling. A Displaced Person is considered to have met the requirement to purchase a replacement Dwelling, if the Person:

1. Purchases a Dwelling;

2. Purchases and rehabilitates a substandard Dwelling;

3. Relocates a Dwelling which he or she owns or purchases;

4. Constructs a Dwelling on a site he or she owns or purchases;

5. Contracts for the purchase or construction of a Dwelling on a site provided by a builder or on a site the Person owns or purchases; or

6. Currently owns a previously purchased Dwelling and site, valuation of which shall be on the basis of current market value.

D. Occupancy requirements for displacement or replacement Dwelling. No Person shall be denied eligibility for a replacement housing payment solely because the Person is unable to meet the occupancy requirements set forth in this ordinance for a reason beyond his or her control, including:

1. A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by

the President, a federal, state or local agency authorized to make such a determination, or the Department; or

2. Another reason, such as a delay in the construction of the replacement Dwelling, military duty, or hospital stay, as determined by the Department.

E. Conversion of payment. A Displaced Person who initially rents a replacement Dwelling and receives a rental assistance payment under Section 20.84.410 B is eligible to receive a payment under Section 20.84.400 or Section 20.84.410 C if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under either of those sections.

F. Payment after death. A replacement housing payment is personal to the Displaced Person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

1. The amount attributable to the Displaced Person's period of actual occupancy of the replacement housing shall be paid.

2. Any remaining payment shall be disbursed to the remaining family members of the displaced household who continue to occupy the replacement Dwelling in any case in which a member of a displaced family dies.

3. Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement Dwelling by or on behalf of a deceased Person shall be disbursed to the estate.

G. Insurance proceeds. To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a Person in connection with a loss to the displacement Dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement Dwelling when computing the price differential.
(Ord. 121998 § 22, 2005.)

20.84.430 Replacement housing of last resort.

A. Determination to provide replacement housing of last resort. Whenever the Department determines that a Program or Project cannot proceed on a timely basis because Comparable Replacement Dwellings are not available within the monetary limits for Owners or Tenants specified in Section 20.84.400 or Section 20.84.410, the Department is authorized to take cost effective measures under the provisions of this section to provide such a Dwelling. The Department's obligation to make available a Comparable Replacement Dwelling shall be met when such a Dwelling, or assistance necessary to provide such a Dwelling, is offered under the provisions of this section. Any decision to provide last resort housing assistance must be adequately justified either:

1. On a case-by-case basis, for good cause, which means that appropriate consideration, as determined by the Department, has been given to:

a. The availability of Comparable Replacement Dwellings in the Program or Project area; and

b. The resources available to provide Comparable Replacement Dwellings; and

c. The individual circumstances of the Displaced Person; or

2. By a determination that:

a. There are few, if any, Comparable Replacement Dwellings available to Displaced Persons within an entire Program or Project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and

b. A Program or Project cannot be advanced to completion in a timely manner without last resort housing assistance; and

c. The method selected for providing last resort housing assistance is cost effective, considering all elements that contribute to total Program or Project costs. (For example, will the Project or Program delay justify waiting for less expensive Comparable Replacement Dwellings to become available?)

B. Basic rights of Persons to be displaced. Notwithstanding any provision of this section, no Person shall be required to move from a displacement Dwelling unless comparable replacement housing is available to such Person. No Person may be deprived of any rights the Person may have under this chapter. The Department shall not require any Displaced Person to accept a Dwelling provided by the Department under these procedures (unless the Department and the Displaced Person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the Person may otherwise be eligible.

C. Methods of providing replacement housing of last resort. The Department shall have broad latitude in implementing this section, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire Program or Project.

1. The methods of providing replacement housing of last resort include, but are not limited to:

a. A replacement housing payment in excess of the limits set forth in Section 20.84.400 or Section 20.84.410. A replacement housing payment under this section may be provided in installments or in a lump sum at the Department's discretion.

b. Rehabilitation of and/or additions to an existing replacement Dwelling.

c. Construction of a new replacement Dwelling.

d. Provision of a direct loan that requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

e. Relocation and, if necessary, rehabilitation of a Dwelling.

f. Purchase of land and/or a replacement Dwelling by the Department and subsequent sale or lease to, or exchange with a Displaced Person.

g. Removal of barriers for Persons with disabilities.

h. Change in status of the Displaced Person with his or her concurrence from Tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment.

2. Under special circumstances, consistent with the definition of a Comparable Replacement Dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement Dwelling, including upgraded, but smaller replacement housing that is Decent, Safe, and Sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a Displaced Person be required to move into a Dwelling that is not functionally equivalent.

3. The Department shall provide assistance under this section to a Displaced Person who is not eligible to receive a replacement housing payment under Section 20.84.400 and Section 20.84.410 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the Person's financial means, which is 30 percent of the Person's gross monthly Household Income. Such assistance shall cover a period of 42 months.

D. The actual amount of assistance shall be limited to the amount necessary to relocate to a Comparable Replacement Dwelling within 1 year from the date the displaced homeowner-occupant is paid for the displacement Dwelling or the date the Person is initially offered a Comparable Replacement Dwelling, whichever is later.

E. The Department is not required to provide Persons owning only a fractional interest in the displacement Dwelling a greater level of assistance to purchase a replacement dwelling than the Department would be required to provide such Persons if they owned fee simple title to the displacement Dwelling. If such assistance is not sufficient to buy a replacement Dwelling, the Department may provide additional purchase assistance or rental assistance.
(Ord. 121998 § 23, 2005.)

20.84.500 Relocation assistance--Mobile Homes.

A. Except as otherwise provided by Sections 20.84.510 through 20.84.530, a Person displaced from a Mobile Home and/or mobile home site who meets the basic eligibility requirements of this chapter is entitled to a moving expense payment and a replacement housing payment to the same extent and subject to the same requirements as Persons displaced from conventional Dwellings. Eligible moving cost payments to Persons occupying Mobile Homes are listed in Section 20.84.300 G1--G10.

B. Partial Acquisition of a mobile home park. The Acquisition of a portion of a mobile home park may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Department determines that a Mobile Home located in the remaining part of the property must be moved as a direct result of the Program or Project, the occupant of the Mobile Home shall be considered a Displaced Person who is entitled to relocation payments and other assistance under this chapter.
(Ord. 121998 § 24, 2005.)

20.84.510 Replacement housing payment for 180-day Mobile Homeowner displaced from a Mobile Home, and/or from the acquired Mobile Home site.

A. An Owner-occupant displaced from a Mobile Home or site is entitled to a replacement housing payment, not to exceed $22,500, under Section 20.84.400 if:

1. The Person occupied the Mobile Home as a Dwelling on the displacement site for at least 180 days immediately before:

   a. The Initiation of Negotiations to acquire the Mobile Home, if the Person owned the Mobile Home and the Mobile Home is real property under state law;

   b. The Initiation of Negotiations to acquire the mobile home site if the Mobile Home is personal property under state law, but the Person owns the mobile home site;

   c. The date of the Department's written notification to the Owner-occupant that the Owner is determined to be displaced from the Mobile Home as described in subsections A3a--d of this section.

2. The Person meets the other basic eligibility requirements of Section 20.84.400 A; and

3. The Department acquires the Mobile Home as real estate, or acquires the mobile home site from the displaced Owner, or the Mobile Home used as a Dwelling is personal property under state law but the Owner is displaced from the Mobile Home because the Department determines that the Mobile Home:

   a. Is not and cannot economically be made Decent, Safe, and Sanitary;

   b. Cannot be relocated without substantial damage or unreasonable cost;

   c. Cannot be relocated because there is no available comparable replacement site; or

   d. Cannot be relocated because it does not meet mobile home park entrance requirements.

B. Replacement housing payment computation for a 180-day Owner who is displaced from a Mobile Home. The replacement housing payment for an eligible displaced 180-day Owner is computed as described in Section 20.84.400 B incorporating the following, as applicable:

1. If the Department acquires the Mobile Home as real estate and/or acquires the Mobile Home site, the acquisition cost used to compute the price differential payment is the actual amount paid to the Owner as just compensation for the Acquisition of the Mobile Home, and/or site, if owned by the displaced mobile homeowner.

2. If the Department does not purchase the Mobile Home as real estate but the Owner is determined to be displaced from the Mobile Home and eligible for a replacement housing payment based on subsection A1a of this section, the eligible price differential payment for the purchase of a comparable replacement Mobile Home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement Mobile Home (i.e., purchase price of the replacement Mobile Home less trade-in or sale proceeds of the displacement Mobile Home); or, the cost of the Department selected comparable Mobile Home less the Department's estimate of the salvage or trade-in value for the Mobile Home from which the Person is displaced.

3. If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional Comparable Replacement Dwelling.

C. Rental Assistance payment for a 180-day Owner-occupant who is displaced from a leased or rented mobile home site. If the displacement mobile home site is leased or rented, a displaced 180-day Owner-occupant is entitled to a rental assistance payment computed as described in Section 20.84.410 B. This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the Mobile Home, to the purchase of a replacement Mobile Home or conventional Decent, Safe, and Sanitary Dwelling.

D. Owner-occupant not displaced from the Mobile Home. If the Department determines that a Mobile Home is personal property and may be relocated to a comparable replacement site, but the Owner-occupant elects not to do so, the Owner is not entitled to a replacement housing payment for the purchase of a replacement Mobile Home. However, the Owner is eligible for moving costs described in Section 20.84.300 and any replacement housing payment for the purchase or rental of a comparable site as described in this section or Section 20.84.520 as applicable.
(Ord. 121998 § 25, 2005.)

20.84.520 Replacement Housing Payment for 90-day Mobile Home occupants.

A displaced Tenant or Owner-occupant of a Mobile Home used as a Dwelling and/or site is eligible for a replacement housing payment, not to exceed $5,250, under Section 20.84.410 if:

A. The Person actually occupied the displacement Mobile Home and used it as a Dwelling on the displacement site for at least the 90 days immediately prior to the Initiation of Negotiations;

B. The Person meets the other basic eligibility requirements of Section 20.84.410 A; and

C. The Department acquires the Mobile Home and/or mobile home site, or the Mobile Home is not acquired by the Department but the Department determines that the occupant is displaced from the Mobile Home because of one of the circumstances described in Section 20.84.510 A3.

(Ord. 121998 § 26, 2005.)

20.84.620 Assurances, monitoring and corrective action.

A. Assurances. Before The City approves any grant to, or contract or agreement with an Agency under which City Financial Assistance will be made available for a Program or Project that may result in a Displaced Person under this chapter, the Agency must provide appropriate assurances to the City that it will comply with and be responsible for compliance with the requirements of this chapter.

B. Monitoring and corrective action. The Department Head responsible for the contract is authorized to monitor compliance with this chapter. Upon notice and request from the Department Head, the Agency shall take the corrective action requested or necessary to comply with this chapter.

C. Prevention of fraud, waste, and mismanagement. The Agency shall take appropriate measures to carry out this chapter in a manner that minimizes fraud, waste, and mismanagement.
(Ord. 121998 § 27, 2005.)

20.84.630 Recordkeeping and reports.

A. Records. An Agency shall maintain adequate records of its displacement activities in sufficient detail to demonstrate compliance with this chapter. These records shall be retained for at least 3 years after the displacement occurs.

B. Confidentiality of records. Unless otherwise provided by law, records maintained by an Agency in accordance with this chapter are confidential, except that they may be made available to the Department to determine compliance with this chapter.

C. Reports. An Agency shall submit a report of its displacement activities under this chapter when requested by the City Department Head. Normally, such reports will be submitted every 3 years, unless the Department Head requests a report more frequently.
(Ord. 121998 § 28, 2005.)

20.84.640 Agency appeals.

A. Actions that may be appealed. Whenever a Person believes an Agency has failed to properly consider the Person's application for assistance under this chapter, including but not limited to the Person's eligibility for, the method of determination of, or the amount of a relocation payment under this chapter, the aggrieved Person may file a written appeal with the Agency.

B. Filing of Appeals.

1. Time limit for initiating appeal. A notice of appeal shall be filed with the Agency within twenty (20) days following receipt of written notice of the Agency's determination. The Agency shall send a copy of any appeal filed to the City Department Head within seven (7) days after receipt of the appeal.

2. Form of Appeal. The notice of appeal must contain a brief statement of the issues on appeal, the specific objections to the decision being appealed, along with supporting facts and documentation, the relief sought, the reason(s) why the Person appealing believes he or she is aggrieved by the Agency's decision, and the reason(s) why the Person appealing believes the appeal should be granted. The notice of appeal must list the address of the property involved, the name of the Project or Program if known, the Agency making the decision being appealed, the name of the appellant, and the signature, address, phone number, and fax or e-mail address if available, of the Person appealing or the Person's authorized representative. The appeal notice must attach a copy of all written documents and certifications or facts upon which the Person appealing is relying. The Agency may dismiss any appeal that fails to comply with these requirements after providing written notice to the Person filing the appeal requesting compliance within ten (10) days.

C. Right to representation. A Person may be represented by legal counsel or other representative in connection with an appeal, but solely at the Person's own expense.

D. Review of files by Person making appeal. The Agency shall permit a Person to inspect and copy all materials pertinent to the Person's appeal, except materials classified as confidential by the Agency, but may impose reasonable conditions in accordance with applicable law.

E. Agency official to review appeal. The Agency official conducting the review of the appeal shall be either the Agency Head or his or her authorized designee. However, the official conducting the review shall not have been directly involved in the action appealed.

F. Hearing Process. The Agency shall consider all written materials submitted by the Person, and all other available information obtained by the Agency after investigation.

G. Decision. The Agency shall issue a written decision within thirty (30) days after submission of all of the documents required by subsection B. The written decision shall contain the reasons for the decision and the provisions for further appeal and shall be mailed to the Person appealing by first class mail with proof of mailing attached and a copy retained in the Agency's files. This decision is the final decision of the Agency.

H. Appeal of Agency Decision. Any Person aggrieved by the final decision of the Agency may file an appeal with the Hearing Examiner, with a copy to the Agency, in accordance with the procedures in Section 20.84.225, except that any such further appeal must be filed with the Hearing Examiner within twenty (20) days of the date of the Agency's decision. The appeal will be conducted in accordance with the procedures for appeals under Section 20.84.225. Any judicial review shall be in accordance with Section 20.84.235.
(Ord. 121998 § 29, 2005.)